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STUDIES  
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STUDIES  
IN  
ENGLISH OFFICIAL  
HISTORICAL DOCUMENTS

BY  
HUBERT HALL, F.S.A.

OF H.M. PUBLIC RECORD OFFICE  
READER IN PALAEOGRAPHY IN THE UNIVERSITY OF LONDON

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## PREFACE

AMONGST the numerous works which have dealt, at different times, with the history of the Public Records and with the description of their nature or uses, it is scarcely surprising that the great majority are due to the professional zeal of native archivists<sup>1</sup>. We should also be prepared to find that, with several important exceptions<sup>2</sup>, these works have been produced by private and not by official enterprise. The bibliography of this class of antiquarian literature is, indeed, extensive<sup>3</sup>, and includes, besides the elementary essays of 16th and 17th century official antiquaries, several valuable works produced during the Victorian period. Moreover, during the last thirty years, these unofficial printed books may be supplemented by numerous articles and other periodical essays which are not exclusively published in antiquarian journals<sup>4</sup>.

At the same time none of these published books or articles will be found to deal in a comprehensive manner with the several aspects of the national Archives which concern the historical student<sup>5</sup>. The practical *Guide* to the official sources does not indulge in any disquisitions upon their formulas or scripts. Similarly the hand-book of Palaeography is not concerned with the historical aspect of these documents, nor does the essay in Diplomatic deal with the principles of their classification. Doubtless the next few years will witness a

<sup>1</sup> A notable exception occurs in the case of Edward Edwards' well-known *Libraries and Founders of Libraries* (1865). This author's *Synoptical Tables of the Records*, produced as an Appendix to the above-mentioned work, was in advance of his times. The hand-book of Mr Walter Rye and Mr W. J. Hardy's monograph on the Rolls House, &c. are conspicuous in more recent times. Treatises on genealogical and other special aspects of the Records are not included in this consideration.

<sup>2</sup> e.g. the well-known official *Guide* by Mr S. R. Scargill-Bird replacing the *Hand-book* of F. S. Thomas. Under this head would be included the *Report on the Rolls Chapel* and the *Catalogue of the Public Record Office Museum* by Sir H. Maxwell Lyte.

<sup>3</sup> Cf. C. Gross, *Sources and Literature* (Section 12 and *passim*). Quite recently Mr L. O. Pike has published a notable monograph on the Public Records.

<sup>4</sup> e.g. by Sir H. Maxwell Lyte, Dr Jas. Gairdner, Messrs S. R. Scargill-Bird, C. Trice Martin, R. A. Roberts, the late W. N. Sainsbury and W. D. Selby and several of the younger members of the Public Record Office Staff.

<sup>5</sup> An exception may perhaps be made in the case of Mr Ewald's well-known work *Our Public Records* published in 1873 and dedicated to the Master of the Rolls. This deals not only with the history of the official Archives at large but also with their classification and philological aspect.

great activity in these directions<sup>1</sup>, and quite recently several instructive essays have appeared of which the present writer has unfortunately been unable to avail himself fully<sup>2</sup>.

In view of the frequent discussion of the subject in the past and the still closer attention which it has received in our own times, the author of this collection of desultory studies is fully conscious of their many and serious defects. The question to him was not, however, one of personal interest, but whether, in the absence of any other comprehensive treatise, such a work could be helpful to British students and to the foreign students whose teachers have so feelingly lamented the dearth of scientific writings on this subject.

The substance of the present volume was in shape more than ten years ago, but the author found himself unable to give an assured answer to this question. He had indeed already resolved to await the opportunity for further study and revision that only retirement from official life could give, when a circumstance occurred which altered his resolution. A laudable ambition on the part of certain students to produce a much needed *Formula Book* of official documents<sup>3</sup> rendered it desirable, for obvious reasons, that the authority for the arrangement and conclusions of that work should be forthcoming.

For the rest, the exceptional scope in respect of date and matter of these single-handed labours in a three-field domain of historical culture may serve as some extenuation of the many defects that a scrutiny, made under more favourable conditions, must reveal in the work of every pioneer.

The author has to express his acknowledgment of the kindness of his friend Professor T. F. Tout in reading the proofs, and of the proprietor of the *Athenæum* and Mr Murray in permitting him to reproduce in the present work a few passages that were originally published in the above journal and in the *Quarterly Review*. He is under many obligations to the Printers and Reader of the Cambridge University Press for their attention to the typographical requirements of very technical matter.

H. H.

August, 1908.

<sup>1</sup> The article on *Records* for the new *Encyclopædia Britannica* should prove of special value. The Palæography of the Records is also engaging scholarly attention. Record officers will be responsible for each of these, whilst they will also have encouraged the important studies of M. E. Déprez in the Diplomatic of the Records. But Diplomatic enterprises of an equally important character are promised by Professor T. F. Tout, Mr C. Davis and Professor Haskins.

<sup>2</sup> Amongst others by M. L. Delisle and Dr J. H. Round, Professor C. Gross and Messrs L. V. Harcourt and F. M. Powicke.

<sup>3</sup> *A Formula Book of English Official Historical Documents. Part I. Diplomatic Documents. Selected and transcribed by a Seminar of the London School of Economics.* Cambridge, at the University Press, 1908.

# TABLE OF CONTENTS

## PART I.

### THE SOURCES OF OFFICIAL HISTORICAL DOCUMENTS.

#### INTRODUCTION TO THE STUDY OF OFFICIAL SOURCES.

Definition of Historical Sources—Documents in Archives—Importance to students of their “discovery” as Sources—if preserved—and accessible—or published—The “unknown quantity” in these Sources—discoverable by the “Science of Archives”—Early neglect of Records—Losses of Records—Documents removed from official custody—The partial use of Records by historians—The question of a British *École des Chartes*—The need of a historical “concordance” to the Archives. pp. 1—12

#### THE HISTORY OF THE ARCHIVES.

- (a) *Records.* Evidences of the custody of Records in the pre-Conquest and post-Conquest periods—History of the ancient repositories of Records—at Westminster—at the Tower of London—at the Rolls Chapel—and Temple Church, &c.—Local repositories of Records—Early Record establishments—Official abuses—Projects of reform—The Public Record Office Act—Modern developments—Local Records. pp. 13—29
- (b) *State Papers.* Distinction between State Papers and Records—The transition period under Henry VIII—The king’s “Study” or Library at Westminster or Whitehall—The early custody of State Papers—Sir Thomas Wilson—His office and career—Sir Joseph Williamson—Reorganization of the Office during the 18th century—The Collector and Transmitter—The Methodizers—Position of the Papers in Whitehall—John Bruce and the new Paper Office—The State Papers placed under the custody of the Master of the Rolls—transferred to the Rolls repository. pp. 30—43
- (c) *Departmental Records.* Growth of the State departments—before the Restoration—and after—Effect of their vicissitudes upon the preservation of Archives. pp. 43—52

#### THE CLASSIFICATION OF ARCHIVES.

- (a) *Records.* Existing systems of classification—A “diplomatic” classification—“Judicial Proceedings”—“Ministerial Proceedings”—Diplomatic Documents—Precedent Books—Miscellaneous documents acquired or deposited—Advantages of a “diplomatic” classification. pp. 53—60
- (b) *State Papers.* Their definition, as distinguished from Records—and from Departmental Papers—The Secretarial collections—System of classification adopted by Sir T. Wilson—and by Sir J. Williamson—Attempted classification

- by the Methodizers (1763—1800)—Early official Lists of the State Papers—The “State Paper Office List”—The Public Record Office Lists—Theory of an historical classification of the State Papers. **pp. 60—70**
- (c) *Departmental Records*. Difficulty of classifying departmental Archives—Theory of their classification—Departmental groups—Modern systems of official classification. **pp. 70—74**

### THE ANALYSIS OF ARCHIVES.

- (a) *Records*. The historical importance of Records—recognized in modern times—Limitations of this historical source—Survey of the legal Records—in connexion with historical study—The use of Indexes and Lists—Research-forms for the use of students—Record sources still to be explored. **pp. 75—82**
- (b) *State Papers*. Their exceptional position as a later historical source—owing to the series of published Calendars—Miscellaneous contents of these collections—Their relationship to the legal Records and departmental Archives—Distribution of the State Papers in the 17th and 18th centuries—Their relative extent—in official or private custody. **pp. 82—89**
- (c) *Departmental Records*. Difficulties of study—due to the obscurity of their official history—also to their unequal preservation and to official restrictions—Characteristics of the several classes—In-Letters—Registers—Minutes—Reference Books—Reports—Out-Letters—Letter-Books—Warrants, Commissions, Orders and Instructions—Precedent Books—Miscellaneous or deposited documents—The use of “Blue-Books” and other printed sources. **pp. 89—100**

### THE BIBLIOGRAPHY OF ENGLISH OFFICIAL HISTORICAL DOCUMENTS.

Neglect of the subject of Archives in this country—Classification of the existing Bibliography—Features of the Bibliography of mediaeval Records—of later legal Records, State Papers and Departmental Records—Foreign and Colonial publications relating to British Archives—Classification of the Bibliography of Archives—Bibliography of Bibliographies—Treatises on Archives—Lists and Indexes—Calendars—Texts and Reproductions—Original Compositions. **pp. 101—110**

#### APPENDIX I.

- A. Table showing the Evolution of the Public Record Office. **p. 111**
- B. Metropolitan Record Repositories (showing the distribution of the Records before the Public Record Office Act of 1838). **pp. 112—114**
- C. Repositories of Welsh Records (before the removal of the Records to London in 1854). **p. 115**
- D. Existing Repositories of legal Records. **pp. 115, 116**
- E. List of existing Repositories of legal Records, additional to the Public Record Office. **pp. 117, 118**
- F. Chronology of the Custody of Official Records. **pp. 118—120**
- APPENDIX II. Chronology of the custody of the State Papers. **pp. 121, 122**



APPENDIX III.

- A. List of Public Departments whose historical Records (including those of abolished Offices under their jurisdiction) have been mainly transferred to the Public Record Office. pp. 123—127
- B. List of Public Departments whose historical Records have not yet been transferred to the Public Record Office or only partially transferred. pp. 127, 128

APPENDIX IV.

- A. Outline of the existing or proprietary Classification of the Records in the custody of the Master of the Rolls. pp. 129, 130
- B. A structural Classification of Records. pp. 130, 131

APPENDIX V.

- A. Outline of the Classification of the State Papers, c. 1545. p. 132
- B. Outline of Sir Thomas Wilson's Classification of the State Papers, 1619—1629. pp. 132, 133
- C. Outline of Sir Joseph Williamson's Classification of the State Papers [1682]. p. 133
- D. Outline of the Classification of the State Papers by the Methodizers, 1764—1800. pp. 134, 135
- E. Outline of the State Paper Office Classification, 1848—1862. pp. 135, 136
- F. Outline of the Departmental Classification of the State Papers, 1873—1889. pp. 136, 137
- G. A structural Classification of the State Papers. p. 138
- H. Heads of a Proprietary Classification of the State Papers. pp. 138—140

APPENDIX VI. The Classification of Departmental Records. pp. 141—143

APPENDIX VII. Specimen Research Form for a Historical Subject in various Official Sources. pp. 144—146

APPENDIX VIII. The several references to the State Papers of a single year (1697) remaining in official custody. pp. 147, 148

APPENDIX IX. Outline of the principal sources from which the Departmental Records in official custody might be supplemented. p. 149

APPENDIX X. Outline of the Bibliography of Official Historical Documents. pp. 150—153

PART II.

THE DIPLOMATIC OF OFFICIAL HISTORICAL DOCUMENTS.

INTRODUCTION TO THE DIPLOMATIC STUDY  
OF OFFICIAL DOCUMENTS.

Causes of the neglect of the study of Diplomatic in this country—Its recent progress—The deficient "apparatus"—Importance of the subject for the study of Palaeography—Not specially treated of by foreign authors—Value of the existing teaching—Recognition of diplomatic formulas of legal Records—Limitations of the following essays. pp. 157—162

## THE ANGLO-SAXON CHARTERS.

- (a) *The Old English Chancery.* No mention of any official establishment before the Conquest—with the exception of certain so-called “Chancellors”—The position of these examined—Possible allusions in charter formulas—Absence of a royal seal—The “Great Seals” of the Confessor examined—The non-use of pre-Conquest seals recognized by mediaeval writers—Continental analogies—Conclusion as to the nature of pre-Conquest sealing—No provision for the custody of royal Acts before the 12th century—No class of professional writers known to exist—Charters probably “home-made” by the churches.  
pp. 163—177
- (b) *Old English Diplomata.* Chiefly known to us from printed *Codices*—Their fitful preservation—and unequal distribution—Possible deductions from these circumstances—Composition of the *Codex* examined—Question of the credibility of the Anglo-Saxon Charters—Tests to be applied to them—Their position in point of merit—Mediaeval diplomatic criticism—Motive for the preservation of “land-bocs” by the churches—Possible connexion of this motive with their composition—Inconsistencies of this theory—Missing link in the practice with regard to lay grants.  
pp. 177—189
- (c) *Old English Formulas.* Obscurity of their origin—Contrasted with continental types—Proposed re-arrangement—The characteristic features of the Old English Formulas—Survey of these Formulas between the 7th and 11th centuries—with special reference to the reign of Athelstan—Appearance of a new type of diplomatic instrument—The Old English Writ—The resemblance to continental diplomata—Its distinctive Formulas—Possible derivation from the Old English “Convention.”  
pp. 189—207

## ANGLO-NORMAN CHARTERS AND WRITS.

- (a) *Anglo-Saxon survivals.* Analogy between the pre-Conquest and post-Conquest Writs and Charters—English and Latin “Versions”—Confusion between “Charters” and “Writs”—Bi-lingual Charters—Evolution of a “new-model” Charter.  
pp. 208—211
- (b) *The Anglo-Norman Charter and Writ.* Distinction between “Charters” and “Writs”—Use of the Anglo-Norman Writ—Development of diplomatic instruments.  
pp. 211—214
- (c) *The Anglo-Norman Diplomatic Apparatus.* The post-Conquest Chancery and Camera—Anglo-Norman Charters—Methods of study—Attachment of the seal—How the parchment was cut.  
pp. 215—219
- (d) *Anglo-Norman Diplomatic Formulas.* The Writ formulas—Their influence on Charter formulas—Evolution of the Writ-Charter—Its formulas derived from vernacular Writs.  
pp. 219—222
- (e) *Special Charter Forms.* The post-Conquest Charter adapted to special purposes—Grants in “Free alms”—Grants of Office—Grants of Markets and Fairs—Forest Charters and “Assart” Writs—Grants of Warren—Distinctive features of the above specialized types—Charters of Liberties—Interpolations facilitated by recurring *introits*.  
pp. 222—224

- (f) *Private Charters and Deeds.* More numerous than royal instruments in the post-Conquest period—Characteristic Formulas of Charters of Feoffment and Confirmations—Charters of Foundation and Frankalmoigne—"Concords" or "Conventions" and Bonds—Quit-claims, Releases or Surrenders—Charters of Attornment—The above not to be regarded as official instruments.

pp. 225, 226

## LATER CHARTERS AND DIPLOMATIC INSTRUMENTS.

- (a) *The English Chancery from the 13th to the 16th century.* Difficulties of study—The Chancery at the beginning of the 13th century—The *Curia Regis*, Exchequer, King's Chapel, *Camera*, Wardrobe and Council—Chancery enrolments—Estreats and Memoranda—The significance of *per*—The several series of Chancery Rolls—Special enrolments—The confused nomenclature of diplomatic instruments—A remedy proposed. pp. 227—235
- (b) *Charters and Confirmations.* Transition from the 12th century "Writ-Charter" to the "conventional Charter" of the 13th century—Later modifications of its formulas—Its functions usurped by Letters Patent—The distinctive formulas of Charters and Patents—Origin of royal Confirmations of earlier Charters—Simplicity of the earlier forms—Innovations during the minority of Henry III—Analogy between the *Inspeximus* and the *Vidimus*—Transition to the conventional *Inspeximus*—The *Inspeximus* by Letters Patent—The Exemplification, *Constat* and *Innotescimur*—Semi-official instruments—based upon private instruments—utilized by the Crown in the interests of the new Statecraft—Conveyances and Contracts—Certificates—Petitions—Other types of private instruments used in the business of the State—Conventions, Oaths, Fines and Recognizances; Affidavits, Mainprises and "Statutes Merchant"; official Certificates—"Statutes Merchant" and "Statutes Staple"—*Significavit*—"Institutions"—Petitions, Specifications, Parliamentary Proxies, Pensions and Corrodies. pp. 235—248
- (c) *Writs under the Great Seal.* Evolution of the old "Executive Writ"—The Writ and Returns of 1166—The same procedure followed in the 13th century—Legal writs differentiated from this form—Derivation of the term Letters Patent—The formula *Teste me ipso* or *Teste Rege*—Distinctive Formulas of Letters Patent—Evolution of the conventional Formulas—The enrolment of Letters Patent—Their diplomatic nomenclature—Later developments—Anomalous forms—"Versions" in French—The use of Latin or English in the composition of later Letters Patent—The position of Letters Close—Their distinctive Formulas—Their official use—Alternative Formulas of Letters Close—shown in a Table—The later history of Letters Patent and Close—Letters or Writs under the Great Seal for special purposes—Fiscal Writs—Instruments relating to Ecclesiastical, Parliamentary and Military business—Legal Writs enrolled in the Chancery—Tendency towards the disuse of the Great Seal and the official use of the Smaller Seals and Sign Manual—Notarial instruments under the Great Seal connected with the business of the Ecclesiastical and Admiralty Courts and the proceedings of Parliament. pp. 249—258
- (d) *Instruments under the Smaller Seals (Missives).* Origin of the use of a Smaller Seal by English kings—The Privy Seal—Personal Seals occasionally substituted for the Great Seal—Distinction between Missives and Warrants

for Issue—Early use of the Privy Seal to authenticate royal instruments—Its early connexion with business of State transacted in the Exchequer or Wardrobe—Convenience of the use of a Smaller Seal—Formulas and language of these Missives—Letters of Privy Seal—Methods of affixing the Privy Seal or “Secret” Seal—Dimensions of Privy Seals—The Signet—Its description and use—Signet Letters—Their character and Formulas—Dormant Writs of Privy Seal—Sign Manual Warrants—Their characteristic Formulas—Proclamations—Their exceptional character. **pp. 258—263**

- (e) *Warrants for Issue.* How distinguished from Missives under the Smaller Seals and Sign Manual—Distinction between Bills and Writs or Letters—Origin of Chancery Warrants—Irregularity of the early procedure—Normal procedure during the 14th and 15th centuries—Variations in practice—Formulas of the Warrants—Their tri-lingual form—The *Fiat*—Departmental Warrants—Neglect of the conventional procedure previous to the Act of 1535—Objects of this Act—Its effect—Later procedure—Departmental Docquets—The use of “Immediate Warrants” and “Signed Bills.” **pp. 263—269**

## LETTERS, STATE PAPERS AND DEPARTMENTAL INSTRUMENTS.

- (a) *Mediaeval and Modern Official Letters.* Transition from Diplomatic to Epistolary forms—The early use of an Epistolary style—Origin of the vernacular Letter—Versions of earlier forms—Evolution of the mediaeval Letter—Changes of style between the 13th and 15th centuries—Formulas and phraseology of the official Letter—Later uses of the tri-lingual style. **pp. 270—274**
- (b) *Secretarial Instruments.* Difficulty of distinguishing between later Diplomatic and Secretarial instruments—Transfer of State business from the Chancery to the Secretariat—Diplomatic documents preserved in the Secretary of State's department—Formulas of later ministerial Despatches—Later Signet Letters and Sign Manual Warrants. **pp. 275, 276**
- (c) *Departmental Instruments.* The conventional official Letter produced by departmental Boards—Its Formulas—Departmental Warrants issued by the Secretaries of State and Household Officers—Treasury, Admiralty and War Office Warrants—Special forms of Warrants—Departmental Orders and Instructions—Departmental Commissions—Subsidiary departmental Records—Registers, Minutes, References and Reports. **pp. 276—280**

## ROYAL SURVEYS, INQUISITIONS AND ASSESSMENTS.

- (a) *Agrarian Surveys.* Analogy of the post-Conquest Royal Inquest with the Frankish capitularies—especially for agrarian Surveys—Other continental analogies—Traces of Old English Surveys—The Domesday Survey—12th century Surveys—13th century Surveys known as royal Extents—Their conventional development. **pp. 281—284**
- (b) *Fiscal Inquisitions.* Frankish analogies and diplomatic relations of the “Geld” Inquest and its successors—The Writ, Form of Inquisition and Return—Diplomatic descriptions of the Domesday Inquest—The relations of the Exchequer MSS. and “satellites” of Domesday Book—The *Inquisitio Cantabrigiensis*, *Inquisitio Eliensis* and *Liber Exoniæ*—12th century Inquisitions—Breviates of Domesday Book—Official and local Hidage Books—



Inquisitions for the assessment of Carucage—Assessments for local taxation—The institution of Scutage—Its Diplomatic aspect—Equivalent assessments on the Knight's Fee—Aid, Tallage and Compositions for Knighthood—Assessments by Tithe or Poundage. **pp. 284—295**

- (c) *Feudal Inquisitions.* Their Diplomatic construction—Feudal inquests of serjeanties, wardships, marriages, escheats, assarts, purprestures and lunatics—Their Diplomatic features. **pp. 295—297**
- (d) *Statutory or Political Inquisitions.* Their Constitutional and Diplomatic relations—Administrative or remedial Inquisitions of the 12th and 13th centuries—Connexion between the Royal Inquisition and the "Old Chapters of the Eyre"—Relations of the "New Chapters of the Eyre" and the "Hundred Rolls" of 1255—The remedial Inquisitions between 1255 and 1279—Relationship of the "Hundred Rolls" of 1255, 1274 and 1279—Connexion of the "Hundred Rolls" with the Inquisitions *Quo Warranto*, *De Ragemannis* and *De Ministris*—The devolution of the Chapters of the Eyre—Later statutory Inquisitions—"Kirkby's Quest" and the *Nomina Villarum*—Political or punitive Inquisitions of the 13th and 14th centuries—Forfeited possessions of Normans and Bretons, of Jews and Templars, of "rebels" (1265), "Contrariants" (1322), "malefactors," &c.—State Trials and later Special Commissions or Surveys. **pp. 297—306**

#### ROYAL ACCOUNTS.

Antiquity of official reckonings—The Frankish manorial inventories—Diplomatic features of the Account—Component parts of an Account—Procedure of its preparation—Subsidiary and miscellaneous forms. **pp. 307—310**

#### JUDICIAL PROCEEDINGS.

- (a) *Judicial Records.* Definition of a Record—Monastic Law Reports regarded as prehistoric Records—Pleadings in diplomatic form—The antiquity of curial Records—Isolated survivals of 12th century Records. **pp. 311—314**
- (b) *Judicial Inquisitions.* The Diplomatic aspect of judicial proceedings—The importance of Inquisitions and Returns—Difficulty of distinguishing between Ministerial and Judicial Inquisitions—Records composed in Diplomatic form—Coroner's and Escheator's inquests—Ancient Indictments—Criminal Inquisitions—Presentments to the Chapters of the Eyre—Pleadings on fiscal Inquisitions—Pleadings on an Agrarian Survey—Judicial Inquisitions connected with the "Hundred Rolls"—Inquisition on the "Robbery of the Treasury" (1303)—Inquisitions connected with the State Trials of 1289—91—Coroner's Inquests—Dearth of later Eyre and Assize Records. **pp. 315—321**
- (c) *Pleadings on Inquisitions.* The Diplomatic aspect of Pleadings—Connexion of the Original Writ with judicial developments—Pleadings connected with the Domesday Inquest—Fragments of Pleadings under Henry II—The Diplomatic character of "Final Concords"—Pleadings on Political Inquisitions in the 13th century—The Templars' Corrodies—The Inquisitions *De Rebellibus* (1266)—Pleadings connected with "Kirkby's Quest" (1285)—The expansion of Pleadings from official Memoranda—Later developments. **pp. 322—326**



APPENDIX I. A Classified Table of Diplomatic Instruments.	pp. 327—338
APPENDIX II. Early Diplomatic Criticism.	pp. 339, 340
APPENDIX III. The Charters of King Athelstan (Concordance of Formulas)	pp. 341—346
APPENDIX IV. Table showing the Relationship of the Pre-Conquest and Post-Conquest Diplomata.	p. 347
APPENDIX V. Documents connected with the Issue of the Great Seal (1662).	p. 348
APPENDIX VI. Fees of the Seal.	p. 349
APPENDIX VII. Note on the Bibliography of English Diplomatic.	pp. 350, 351

### PART III.

#### THE PALAEOGRAPHY OF OFFICIAL DOCUMENTS.

##### INTRODUCTION TO THE PALAEOGRAPHY OF OFFICIAL DOCUMENTS.

Importance of the study of the Origins of the Handwriting of Western Europe—	
The value of Palaeography for the study of English official documents—	
Methods of Palaeographical study.	pp. 355—359

##### PALAEOGRAPHY.

- (a) *Old English Writing.* The origin and development of English writing—Majuscule writing—Minuscule writing—Cursive writing—Mixed writing—Influence of Half-Uncial and Half-Cursive writings on the English style—Misconceptions with regard to Cursive writing—Supposed conversion of the Anglo-Saxon Half-Uncial hand through foreign influences—The alleged reforms of Alfred the Great—Insufficiency of evidence for this—Anglo-French writing in the 10th and 11th centuries—Influence of the Anglo-Saxon school abroad explained by French scholars—The predominance of vernacular writs in the 11th century—Possibility of a native reform of angular script—Conclusion. pp. 360—365
- (b) *Mediaeval Writing in Latin.* Influence of the Franco-Roman and “elegant Saxon” writings in the 11th century—Characteristics of 12th century official writing—The writing of 13th century Rolls and Registers—Appearance of Gothic writing—“Clubbed” strokes and “Bows”—Half-Cursive Gothic—Later official writing. pp. 365—368
- (c) *Mediaeval Writing in Old French.* Linguistic difficulties—The orthography of Old French—Contractions—Versions. pp. 368, 369
- (d) *Later Official Writing.* Changes in the character of mediaeval writing—Revival of Calligraphy in the 15th century—Use of the vernacular Cursive—Artificial writings—“Court-hand”—“Chancery” hand—“Secretary” hand—“Humanist” Calligraphy—Survival of Gothic forms in the vernacular Cursive—Characteristics of 16th and 17th century vernacular writing. pp. 369—373

(e) <i>The Royal Scriptorium.</i> Effects of the non-existence of an Old English Chancery—The Royal Scriptorium—Clerical departments—Clerical performances— <i>Clericus</i> and <i>Scriptor</i> —Employment of official scribes—Rules of the <i>Scriptorium</i> —Capacity of mediaeval scribes—"Register-hand."	pp. 374—379
(f) <i>Palaeographical Terms.</i> Distinctions between the terminology of English and continental MSS.—Confusion caused by synonyms—Technical descriptions applied to official writings.	pp. 379—382
(g) <i>Palaeographical Tests.</i> Difficulty of determining the date of handwriting—Rules in use for this purpose—Defects in the script—Peculiarities of scribes—Causes of error—The identification of modern holographs and memoranda.	pp. 382—386
(h) <i>Contractions.</i> Relative prevalence of Contractions in official and literary MSS.—General characteristics of Official Contractions—Distinction between the <i>compendia</i> used in Latin and Old French MSS.—Duration of Contractions in official writings—Special forms of Contractions in Departmental Records.	pp. 386—389
(i) <i>Extensions.</i> Attitude of modern scholars towards the practice of extending Records—Advantages and disadvantages of this practice—The system employed in official publications—and in the publications of Learned Societies—The position of Historical Students—Archaic typography—The future of Facsimiles.	pp. 390—394
APPENDIX I. Table showing the Evolution of English Writing.	p. 395
APPENDIX II. Classification of the Bibliography of Palaeography.	pp. 396, 397
TABLE OF MATTERS	pp. 399—404

#### ERRATA.

p. 249 note 1, *For* "Histoire de Diplomatie," *read* "Manuel de Diplomatie."

p. 289 note 2, *For* "Lindsay," *read* "Lindsey."

p. 299 last line but one, *For* "reve," *read* "reeve."

p. 304 l. 11, *For* "Rhyddlan," *read* "Rhuddlan."

# PART I

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## THE SOURCES OF OFFICIAL HISTORICAL DOCUMENTS





## INTRODUCTION TO THE STUDY OF OFFICIAL SOURCES.

A DEFINITION of the subject-matter of historical study appears to be both simple and desirable. But unless our phrase is very closely guarded, we run the risk of appearing to discuss the vexed definition of history at large. This is certainly not the intention of the present essay. It will be readily conceded that the historian may present any fact that bears upon the history of the human race, and it must follow that he may place his own interpretation on this fact. Though the correctness of this interpretation may be a matter of opinion; even though its presentment may indicate an imperfect method of study, the author may be assured of a patient hearing. But there is one stipulation that is made by modern science—that the historical fact shall be, as far as possible, a scientific fact. It is not enough that these facts shall be weighed and tested by the most perfect apparatus that the historian's craft has devised. Every possible precaution must also be taken that individual facts are not forthwith discredited by rebutting evidence. Now it has come to be accepted as a general proposition that history, or historical composition, is founded upon facts that are usually derived from historical documents. Therefore, in connexion with historical study and the search for facts which it entails, our attention is forcibly directed to the documents which play such an important part in the whole matter.

These documents, as we know, are of various aspects and of several eras; but we are here concerned only with the national Archives of this country. These, again, may be regarded, from the student's point of view, according as they are (1) existent or non-existent, (2) accessible or inaccessible, (3) printed or inedited. Of the above types it may be remarked that the existent and non-existent documents are equally an unknown quantity.

The use of the term "Heuristic" to distinguish the method of discovery of the recognized sources of history from the methods of

historical analysis and composition is in keeping with the marked tendency to treat history as a science, which has been a frequent subject of discussion in the present day. Whatever the value of such terms may be, any method that will facilitate the discovery of the true sources of history clearly deserves our close attention; for without recourse to such a method the historian is in danger of being carried away by the literary impulse of his art. The result of this is seen in the waste editions and worthless texts which lie scattered through our streets, the wrecks of many able enterprises upon the stubborn rocks of fact.

This tendency to evade the preliminary investigations, which we are all agreed should be exhaustive, is probably the result of the necessary refinement which must be made in the definition of history as a science. In collecting the facts which will be used for the purpose of historical composition, we are unable, in most cases, to proceed by actual observation. Instead, we are compelled to infer the facts from the evidence of documents, and so, from the outset, the rigid requirements of scientific study can be dispensed with, and the most conscientious student is rapidly demoralized. It is in vain to urge that, before we proceed to analyze and use the facts that have been distilled from a mass of documents, it is desirable that the whole crop should be gathered, sorted out, and strictly accounted for. The man of letters who has made these quasi-scientific researches is naturally reluctant to spend the best years of his life in this drudgery; and so the documents continue to be taken more or less at random to supply the exigencies of each new occasion.

Nevertheless, the mere discovery of documents connected with any historical period or subject can only possess an importance that is relative to the extent of the whole of the existing sources of information; that is to say, we must not be content to assume that only certain sources are available; far less are we at liberty to limit the scope of our researches herein at pleasure. We must examine, if we do not utilize, every known historical document that concerns the period or subject under treatment; and we should, for the purpose of estimating the value of the evidence available, even take into account such documents as are known to have formerly existed. For the latter, though not necessarily capable of supplying material facts, may still possess a scientific value. Thus the student may have occasion to ascertain what documents formerly existed for a given subject, just as it is of importance for the study of comparative anatomy to ascertain the existence and construction of extinct forms.

The accidental or deliberate destruction of documents is, however, a subject that is commonly disregarded, though it is one that is calculated to give rise to serious reflections. The inferences that we are accustomed to make from documents do not depend wholly upon the existing sources apart from their environment. We associate Master Brown with the "Third Roll" of the twelfth-century Exchequer, although we are ignorant of its real contents. On the other hand, whilst we attach a sentimental value to certain fragments of ancient records which we have discovered through desultory researches, we disregard others which would throw much light on the constitutional procedure of early times. A whole treatise might be written on the subject of these lost sources of history, and the hypotheses that might be based upon their partial evidence can be easily imagined.

It is a commonplace that, by the loss of documents, certain historical sources have been eliminated. This bare statement, however, requires some qualification. A document is only valuable relatively to its importance and its unique character, and the destruction of large masses of documents containing duplicate or trivial information may prove of actual benefit to the student. It is well known, indeed, that the wealth of sources for the later period of European history is viewed with some dismay by writers on historical method, and nothing short of a rigorous selection will enable the student to overcome this congestion of materials. But it is essential that this selection should be made intelligently and with a full appreciation of the requirements of posterity, whilst the arrangement of documents is to be regarded as a necessary prelude to their safe custody. The mere mechanical process of sorting will serve as the best protection against the decay which has been the fate of many buried treasures. Their numeration and classification will guard them from wholesale spoliation or ignorant destruction as well as from undeserved neglect. These administrative questions, to which the continental text-books attach much importance, do not directly concern the historical student, except so far as they enable him to appreciate the actual or potential value of the sources. In the next place, it is necessary for him to ascertain what documents are accessible and what are not, in order that he may make his dispositions accordingly.

It has been assumed by continental writers that for the most part historical documents are preserved in public institutions. This assumption, however, is scarcely justified in the case of our own national sources. Yet their actual ownership is a small consideration to the

practical student, provided that the documents themselves have been carefully preserved and are accessible under reasonable conditions.

Here, as in the preceding aspect of historical research, the student has ever been at the mercy of the *forces majeures* wielded by official bodies and lawful owners. In his negotiations with these irresponsible powers he will assuredly gain nothing by a clamorous insistence on a public right. It is true that the inherent title of the State to control the preservation or disposition of national documents might easily be vindicated. But even if the removal of official papers by former ministers of State could be shown to amount to a public misdemeanour, a sweeping Act of Resumption could not be enforced without recourse to an inquisitorial process that would be not only costly, but also ungracious in view of the facilities afforded by many enlightened owners. Something has, indeed, been done during recent years to encourage the voluntary restitution of official documents or to effect their purchase when exposed for sale. Much more, however, is needed to secure the reversion of these documents to the nation as well as to render them immediately accessible to students; for it is intolerable that permission to examine such documents should be refused, because their value for the purpose of private sale to foreign libraries might be depreciated.

The further consideration as to the form in which the existing documentary sources are available is also to some extent connected with this proprietary consideration. It is well known that the chief agencies whereby, at different times and for distinct purposes, the original documentary sources were produced have been the State departments and the great corporations which employed a similar clerical method. Below these, at a considerable interval, may be placed the muniments of private persons, of whom some few, indeed, deserve special recognition as statesmen or clerks, lawyers or men of business; we must not forget, too, that the literary activity that produced the mediaeval chronicles was largely applied to the compilation of official records and registers. Now just as the first of these two classes has bequeathed to us a great store of records and official muniments, and the other a miscellaneous mass of documents of varying quality, so, in the course of time, each class has concerned itself with the reproduction of these original sources. It is only natural to expect that the State should take the lead in this enterprise, although it is by no means certain that this lead will be maintained in an age of individual activity. As yet, however, the disparity between the production of printed texts or abstracts of



historical documents by the State and private owners, respectively, remains considerable. A keener competition will be found to proceed from the learned zeal of those who have no vested interests in the subject-matter of their labours—the private workers or learned societies who print all documents within their reach that contain matter of academic interest. And so in one direction we have already reached the climax of the mechanical procedure which gives us printed Law Reports and Parliamentary Papers, by-laws and official forms. In another direction we still complain of an insufficiency of printed matter in the shape of texts and inventories, which constitute the printed sources of history; though in respect of commentaries of various kinds we are perhaps suffering instead from a plethora of materials.

It has often been remarked that earlier historians carried out their preliminary researches at a great disadvantage by comparison with the resources of modern scholarship. The statement is obviously correct, although it should not be forgotten that we possess some exhaustive and valuable historical treatises that are based upon a unique series of documents. Again, some of these early texts must stand in the place of the original document, which is not extant or else is seriously mutilated. This indeed is a position that we have scarcely yet realized, although the realization will some day move the nation profoundly. On the whole, therefore, the distinction between the printed and inedited sources is still very real. But we have this advantage in dealing with the former, that it is at least possible to account for all the published forms which have been based, to a greater or less extent, upon documentary evidence. For this we have to thank the authors of the great historical bibliographies of our own time, which have far outdistanced the repertories of original documents actually available for permanent reference.

But to render his investigations effective it is essential that the student should be able to form some conception of the unknown quantity in the shape of documents that he will have to reckon with. Certainly the most practicable means of arriving at this knowledge is the use of a scientific scheme of classification in which every species of historical document will find a place. For this purpose it is necessary to include at least the whole body of national documents in our survey, and the magnitude of this undertaking will perhaps explain the want of such a classified list, and the consequent defects of the various "Lists of Authorities" which are prefixed to most modern historical compilations.



The admitted deficiency of repertories would doubtless be regarded by many learned scholars as a sufficient answer to a plea for more strenuous methods of research. "We must wait," we shall be told, "until these repertories have been completed." There was a time when editors were accustomed to concern themselves with such codices only as librarians chose to lay upon their tables. That time has long gone by; but those editors would have been justified in their own generation by the want of proper facilities for their work.

We read in the latest text-book on the "literature and sources" of our national history that this country unfortunately possesses no adequate treatise on its unrivalled archives, whereas considerable attention has been given to the subject abroad. The same remark has more recently been repeated in the official introduction to the admirable Report of the Treasury Committee on Local Records, but its full significance appears to have escaped the attention of English scholars. To foreigners the fact has long been known, and has frequently been the subject of unflattering comment. But although the moral which our own officials have offered for our consideration is sufficiently obvious, it must in justice to ourselves be remembered that even on the Continent the "science of Archives" is a comparatively new one. Moreover, we could point to much solid work accomplished by official antiquaries since the reign of Queen Elizabeth, while throughout the whole of the eighteenth century greater attention was probably paid to this subject in England than could be spared by the militant and evanescent states upon the Continent. Finally, the prodigious feat accomplished in the last century by the centralization and rearrangement of the Public Records, has excited general admiration, and the merits of the modern official inventory or "Guide" have been gracefully acknowledged in many lands. Even holiday students are unconsciously imbibing the rudiments of the new science. The manuscript exhibits in the British Museum and in the Record Office Museum founded by the present Deputy Keeper have proved an invaluable object-lesson to the masses, whilst many "educated" persons are now aware that Magna Carta was not signed by King John with a quill-pen, and that Domesday Book is not inscribed in "black-letter."

It might be thought, therefore, that hitherto we have, on the whole, got on very well without a "science of Archives," and that the impatience of the modern student of history with the present rate of progress in the discovery and arrangement of sources is due to a failure to appreciate the conditions under which the work must in-

evitably be performed. The neglected bibliography of our own "archive economy" would perhaps reveal the appalling crisis through which we have yet scarcely passed. In the works of older antiquaries we have complacent references to the just appreciation of the Records by intelligent sovereigns as "the chiefest jewels of their crowns." In all times the sanctity and authority of these legal evidences have been admitted and maintained by every party in the State, and on occasion they could serve as a bond of interest to unite the whole nation in opposition to foreign pretensions or internal abuses, whilst their authority has been eagerly cited on either side in every constitutional crisis of the State. Yet in the face of this general recognition of the value of the national Records, we have the damning evidence of the irreparable losses which they have sustained. These were due partly to the personal neglect of their official custodians, and equally to the wanton refusal of Parliaments and ministries to adopt the simplest precautions for their safe keeping. The whole scheme of the custody and arrangement of the Records was subordinated to the exaction of fees by Patent officers and their needy deputies. The Repository became a commercial warehouse where the articles for which there was a ready demand were duly preserved, and even temptingly displayed in official catalogues. The residue, consigned to some dusty attic or noisome vault, was allowed to moulder and rot unheeded. At length the day came when the Government ceased to haggle over the refitting of the lofts and cellars, the tanks and stables, which had become the last refuge of the greatest national treasure possessed by any country in the world. What was left of our national Archives was transferred to a central repository, and we began to count our losses. These were indeed heavy; but they were not the only ones that had been suffered. When, after centuries of neglect, the Archives were to some extent arranged and catalogued, it was found that the injury sustained by the nation could not be measured by these gaps alone. In one direction the local Archives had been pillaged by enterprising antiquaries. In another quarter the official correspondence of the State continued to be carried off by successive ministers almost down to our own times, and from this private custody numberless documents have found their way into some great library or national collection.

The results of this devolution have, on the whole, been surprisingly favourable from the point of view of the preservation of these sources. At the same time, this independent survival is attended with one great disadvantage to private students. The originals of these historical

manuscripts are often inaccessible, and they have in many cases been inadequately described in memoirs or reports, whilst their relationship with the parallel series in official custody has rarely been indicated. It will be evident that these grave irregularities, which were only too easily condoned, have thrown a heavy burden upon the modern archivist and student alike. The one has had to evolve order out of chaos, and to close the gaps which he can no longer fill up. The other, after he has grasped the endless intricacies of an official classification based on an Edwardian system, when he is at length acquainted with the official sources which exist for a particular episode in the history of the last two centuries, has still to reckon with the external documents which fill the gaps in the official series, or which supplement its evidence. For this purpose he must embark upon a new enterprise, not unlike some that will be familiar to the readers of a modern detective romance. He must connect a certain statesman or official body with the possession of these papers, and then trace their descent, often through numerous ramifications. Failing this, he must watch for their inevitable devolution to the national Archives or to a public library.

For it is not enough that we should merely find and use a document; we should also know its manuscript relations. By treating every document as a separate unit we are in danger of making "documentary" history in a spasmodic and desultory manner. When a new document has been "discovered" our histories are made to accord with its evidence. Then another document is found, and our latest views must be modified, and so on, without any assurance of finality. These new discoveries and new views, ever shifting with the progress of research, are not only prejudicial to the reputation of the historian, but also exercise a demoralizing influence on our historical method.

The above reflection is not intended to convey the vague proposal of an impossible ideal, or to obscure the limits of historical research imposed by the requirements of literary proportion. The student of history must of necessity be sternly practical; but that he should secure himself against possible surprises would seem a measure of common prudence. Otherwise he would resemble a general advancing into the interior of an enemy's country by easy stages along a broad highway, leaving on either side woods and defiles unreconnoitred—the Archives that may conceal an army of hostile facts.

The fact is that whilst all that pertains to the ethical or philosophical consideration of historical facts or problems, to analytical and

synthetic criticism, and to the auxiliary studies necessary for the equipment of the thinker, the worker, or the critic, has been brought to a high degree of perfection ; whilst time and money and still more precious scholarship have been lavished upon the publication and republication of historical texts which possess a conventional or a sensational interest, comparatively little attention has been paid to the outlying sources. In this particular instance, however, we have not sinned alone. The historians of every country in the past have displayed a notorious lack of initiative in the discovery of materials. Even editors and commentators have preferred to ring the changes upon a few groups of famous Records or MSS., whilst bibliographers and cataloguers have seldom found an interest in describing or classifying documents the historical or literary value of which was not well established.

There lies a famous manuscript, as sound and fresh as though this were the decade of its compilation. It is sumptuously bound and it is protected by a glass case. It has been honoured by countless sittings to photographers and artists, and it has been painfully transcribed by many generations of eager antiquaries. It has been printed and edited with all the skill and learning known to modern historical science, and, again, it has been utilized as the groundwork of many an original treatise, the materials of which have been selected with the nicest scholarship and its plan constructed by a master mind. Finally, the manuscript itself, its facsimiles, its transcripts, its published texts or commentaries, have been described and classified by archivists and bibliographers in many works of reference. Here we see the recognition of a single document, but it is a process that has occupied the attention of several generations of scholars. As far as preliminary researches are concerned, the student's work is already done for him ; but what proportion do these edited pieces bear to the whole mass of historical documents ? If we sift the corn from the chaff by withdrawing obsolete texts and worthless inventories, the handful of grain is a small one.

These instances of the disadvantages under which our archivists have laboured, as well as of the capricious zeal which our scholars have frequently displayed in the cause of historical research, are by no means exhaustive. But if we admit that the existing conditions under which that research is carried on are unsatisfactory, it naturally concerns us to seek for some remedy, whether it be partial or complete.

Now anyone concerned with the general subject of the adminis-



tration of our national Archives, would doubtless be able to offer us numerous suggestions inspired by the scientific literature which, as our official mentors have reminded us, is devoted to this subject abroad. He might, for instance, suggest the necessity for a description of the manuscript sources of our national history, like that which has recently been produced in France under very able direction. He might urge the practical success of the foreign *missions historiques*, both public and private, as an inducement for attempting to produce a comprehensive inventory of historical sources abroad. He might endorse the recent dictum of MM. Langlois and Seignobos that historical MSS. are of comparatively little use to students outside of a public collection, or he might emulate the courage of these admirable authorities when they broadly hint that although an archivist should be the first to discover a rare document, he is, whilst catalogues remain on hand, the last person by whom it may be edited. He might still further occupy our attention with a variety of abstruse and purely technical subjects which are handled with consummate skill by foreign experts; but it is obviously undesirable to discuss these administrative questions here.

Indeed a passing reference to this matter need not have been made if there was not an apparent disposition in some quarters to regard an *École des Chartes*, with the drastic reforms in our archive economy which its establishment would necessarily involve, as a panacea for our national shortcomings. But the continental and the English Archive systems have scarcely a single condition or a single feature in common, and we are tempted to wonder if this rudimentary fact is generally known. We have no Ministry of Public Instruction, no national college of professors or doctors of history, and no departmental Archives providing the chief employment of archivists.

Surely there is no opening here for an *École des Chartes*; but if for us French science is unattainable, we can still call German learning to our aid. There is a middle course between the worship of fortune and the cult of Archives, and that leads to the plain study of sources. For after all what chiefly concerns the student is that he may be able to ascertain with speed and certainty the existence of particular sources, and their precise description for the purpose of reference. This information he will be able to obtain, in the case of printed sources, from the scientific bibliography which should furnish him with a key to every historical library. But with the exception of the general headings in official inventories, there exists no key to the



historical subjects respecting which information may be found amongst our Public Records.

One explanation of this omission may be that the modern student is, comparatively speaking, a new-comer to our Archives. In former days these were regarded as the special province of the legal practitioner and the legal antiquary, who shared with the zealous genealogist and the laborious topographer the mercenary attentions of their ill-trained custodians. Some devoted scholars there doubtless were whose learned monographs still excite our wonder and despair; but these men were neither trained historians nor efficient archivists, and their historical method was necessarily limited by the meagre resources at their command.

At length, some fifty years ago, the modern historian appeared upon the scene, as a patron of Archives, but not as yet an original investigator. Like the dexterous crustacean that finds a covering for its vulnerable parts amongst the *débris* of the shore, our historian made shift to fortify his conclusions with the derelict texts and calendars of the old Record Commission. Later still, his wants have been supplied through an enlightened official *régime* by faultless texts, exhaustive calendars, and descriptive catalogues. It is, therefore, scarcely surprising that the need for an historical subject-index to the Archives at large has been scarcely felt until our own time. But now the history schools of our own, and still more of foreign universities, have begun to send out a daily increasing army of students bent on exploring the innermost recesses of our Archives. The time, then, has surely come when some attempt must be made to bring the mere student into touch with the skilled archivist. Abroad, as we have seen, it is contrived that each should understand the technical language of the other; for in default of such a system, it is scarcely reasonable to expect that the historical student should manifest a deep interest in a purely professional subject, or that the archivist should be prepared to grasp at once all the bearings of an abstruse historical thesis. Here, then, there seems to be room for a complementary study of the science of Archives which may one day furnish us with an historical inventory and concordance of subjects and sources. The usefulness, if not the necessity of such a work, will scarcely be denied, but of its feasibility some doubts may well be entertained. And yet the problem has been fairly solved by a foreign scholar in the case of our mediaeval printed sources. Our historical bibliography is the product of half a century of painful experiment, and its beginnings were sufficiently humble. This would furnish a ground-plan for such a work

as we have contemplated ; for the sources that we have in view are but historical texts yet unpublished, and for the most part they will merely supplement our printed literature. The difficulty will lie in the concordance of technical terms with historical ideas.

But although the harvest is so large the labourers are still few. It would seem that for the present we must largely rely on alien workers, but fortunately some of our ablest teachers have both the knowledge and the will to provide the preliminary instruction which facilitates the use of these original sources. The better equipment of our students from the light of our own hard-earned experience is a duty that we owe to ourselves and to posterity.

## THE HISTORY OF THE ARCHIVES.

### (a) *Records.*

THE ancient treasury of the English kings with its multiform contents in the shape of money and plate, regalia, relics and records has been described with considerable minuteness by many generations of native antiquaries and the titles and duties of its custodians have been set forth in numerous establishments<sup>1</sup>. Further than this, the eventful transfers of records to new repositories or from one centre of official activity to another have been duly noted, together with the causes and effects of the periodical reforms in the method of their custody<sup>2</sup>. Finally, after tracing the gradual recognition, in later times, of the interest of the whole community in the safe-keeping and accessibility of the national Archives, the great transformation scene in the early years of the past century has been illustrated by a wealth of official and polemical literature<sup>3</sup>.

At the same time the story of the housing of the Public Records is one which has given rise to few reflections and it remains without a moral. This circumstance, however, is of less moment than the loose and indefinite descriptions of the position and contents of the ancient record repositories of the Crown which pervade the voluminous official Reports on the Public Records published during the first half of the nineteenth century.

After wearily turning some thousands of folio pages, the modern antiquary who seeks more definite information than the chance allusions which may be found in the official memoranda of con-

<sup>1</sup> *Red Book of the Exchequer* (Rolls), pp. cclxxxviii sq., ccciii sq., cccxxxi sq.; *Black Book of the Exchequer* (Exchequer T. of R.), Vol. II. *passim*; Palgrave, *Kalendars and Inventories of the Exchequer*, Vol. I., Introduction; *Antiquities and Curiosities of the Exchequer*, p. 77 sq.

<sup>2</sup> *Ibid.* and Edwards, *Libraries and their Founders*, p. 211 sq.; Thomas, *History of Public Departments*, p. 117 sq.

<sup>3</sup> See below, p. 25 sq.; and C. Gross, *Sources and Literature*, section 12.

temporary archivists, will probably find himself without any exact ideas upon the subject.

Perhaps it would be impossible, at this late date, to supply the deficiency or to attempt a reconstruction of these early repositories from existing remains. Yet something more may be learnt from a careful examination of such notices as are still available.

Not less than a thousand years ago, if we may believe the traditions of its guardians<sup>1</sup>, the royal treasury contained a hoard of records of which some few fragments have been happily preserved though the greater part is lost to us for ever. How far these traditions are borne out by the evidence of contemporary documents, or how far, again, they are based on forgeries or interpolations of a later age are questions which can only be decided by a critical examination of the existing texts. Taking these evidences, however, as they stand, we find the existence of such royal Archives positively asserted in several Old English charters dating from the ninth century<sup>2</sup>.

These documentary allusions do not of course enable us to ascertain the position and nature of the collections referred to, but we can gather that they were preserved with the royal treasure and relics in charge of an official who appears in later times as the recognized custodian of the Public Records<sup>3</sup>.

On the other hand it might perhaps be suggested that it is scarcely necessary to take the evidence of these early notices too seriously. The incidental description of an Anglo-Saxon "duke" engaged in researches amongst the royal Archives<sup>4</sup>, or of the Confessor's "Bed-thegn" watching over a repository of treasure and records, are characteristic pieces of by-play in the serious business of diplomatic composition.

Doubtless there must have existed from a period long antecedent

<sup>1</sup> *Dialogus de Scaccario*, I. 14, and below, Part II.

<sup>2</sup> C.S. 575, preserved in the late 11th century cartulary of Worcester. C.D. MCCLXXXVII, which begins in 12th century fashion *Domino meo karissimo Regi Anglorum Edgaro*. C.D. DCCCXXXII, an Ely charter in which we read *Hæc scripta tripliciter consignantur; unum est apud Ely; aliud in Thesaurum Regis; tertium Leofleda habet*. What purports to be an original charter of Cnut (*A.S. Facs.* III. 41) has the statement *et harum brevium tria sunt; unum in ecclesia Christi; alterum in monasterio Sancti Augustini; et tertium in thesauro Regis cum reliquiis Sanctorum*. In C.S. 421 two copies of the record of the Council at Kingston (A.D. 838) are ordered to be preserved by the kings present *cum hereditatis eorum scripturis*. Cf. below, Part II.

<sup>3</sup> *Ejusdemque scripti medietatem in gazophilacio, ubi quæcunque habebat præcipua et preciosa erant reposita, ab Hugulino Cubiculario suo diligenter conservari* (*Chron. Rames.* p. 171). For the significance of this *gazophilacium* cf. Wattenbach, *Schriftwesen* (1871), p. 359.

<sup>4</sup> C.S. 575.

to the Conquest some repository for the regalia and relics which graced the state even of the rudest monarchy. If the existence of such a repository can be assumed we need look no further for a muniment room in which the *hereditarii libri* of Anglo-Saxon kings were deposited<sup>1</sup>. To these might be added later, if we could credit the earliest establishment of the royal treasury with definite official functions, such rescripts as formed the nucleus of the later series of Chancery enrolments<sup>2</sup>. This, however, is necessarily a pure supposition. The real significance of these legendary notices does not lie in their reference to particular documents which are no longer preserved in official custody, and which are for the most part only represented by later copies derived from a tainted source. They serve to remind us of the indisputable fact that the records of the State were still preserved at a considerably later date according to a precisely similar method. In the royal castle of Winchester and beneath the royal abbey of Westminster; in the tower of Caesar and beside the Hall of Rufus; in the very wardrobe and "chamber" of the court, which followed the king in the days when the king's house was prepared in many shires; in each of these in turn the royal treasury would be found near to the royal presence; for where the king's treasure lay, there would his heart be also<sup>3</sup>.

After all, however, the evidence which exists as to the preservation of actual Records before the reign of the first Angevin king is somewhat vague and inconclusive. We know indeed that the record of the Domesday survey was placed in the royal treasury at Winchester by order of the Conqueror<sup>4</sup>, and that it was officially referred to in the reign of Henry I<sup>5</sup>. Then there were Tallies and Pipe-rolls and other official instruments of the ancient Exchequer during the same reign<sup>6</sup>, and Exchequer buildings which were already ruinous in the middle of the century<sup>7</sup>.

It is true that these references are meagre and indistinct, and that they are derived in some cases from secondary authorities; but only twenty years later we have a graphic and circumstantial description of the preservation and employment of an elaborate series of fiscal and judicial records, which can, to a large extent, be identified with the existing series<sup>8</sup>. Even at this date, however, there does not appear

<sup>1</sup> Above, p. 14, n. 4.

<sup>2</sup> *Dialogus*, i. xiv.

<sup>3</sup> *Dialogus*, i. vi.

<sup>4</sup> See below, Part II.

<sup>5</sup> *Chron. Abingdon*, II, 116. Cf. J. H. Round, *Feudal England*, p. 143.

<sup>6</sup> *Dialogus*, i. i. and xi.; *Red Book*, p. 659.

<sup>7</sup> Pipe Roll, 2 Henry II (1155), London.

<sup>8</sup> *Dialogus*, i. xiv. Cf. below, Part II.



to have been any repository of Records in the modern sense. This indeed was the characteristic feature of their custody<sup>1</sup>, and one which was equally characteristic of the custody of treasure including relics of intrinsic worth. Like the miser's hoard<sup>2</sup> these were secreted in many wrappings within divers uncouth receptacles, and here some have remained until the present day<sup>3</sup>. Bags and pouches, hanapers and skippets, filled with deeds and conventions under seal, with rolls and files of writs, were placed in pixes and chests, and these in turn were stowed away in the great arks<sup>4</sup> or hutches which stood in the ante-rooms of the treasury or chamber, to be removed on occasion with the coined treasure, plate, and regalia, from one administrative centre to another.

It is essential for a clear perception of the nature of the divided custody of the State Archives, prior to the Public Record Office Act of 1838, to distinguish between the official jurisdictions of the several repositories in use from the close of the 12th century to the beginning of the 19th. In addition to the earliest hoarding of Records in the royal treasury or in any one of its branches, we find the term "treasury" used from the 13th century to denote several independent repositories associated with distinct classes of Records. There was a "treasury" of this kind in the Tower of London and "treasuries" of the King's Bench, of the Common Pleas and of the Receipt of the Exchequer within or adjoining the palace of Westminster, besides the ancient royal treasury in the cloisters of the Abbey<sup>5</sup>.

Again there are further repositories to be accounted for, such as the Wardrobe, which also had its branches at the Tower and at Westminster, together with the royal chapels or churches (other than the Abbey itself) where Records were certainly deposited from a very early date.

<sup>1</sup> Literary manuscripts, on the other hand, were preserved in monastic libraries in presses such as are still used for private muniments.

<sup>2</sup> The monkish satirist compares Harold to a usurer gloating over his treasure (*Lives of Edward the Confessor* (Rolls), p. 151).

<sup>3</sup> These have been described by Sir F. Palgrave (*Kalendars, &c.*, Vol. I. Preface), but much more accurately by Sir H. Maxwell Lyte in his *Catalogue* of the Museum of the Public Record Office (1902).

<sup>4</sup> *Archa* was the 12th century designation of these receptacles, and "hutch" was apparently the 17th century official rendering of the later term "huchea." A fine specimen, though of later date than the 12th century, is still preserved as the so-called "Domesday chest" at the Public Record Office. The "Ark of the Judaism" at York conveys an even wider meaning, equivalent to the modern "Archives."

<sup>5</sup> For the archaeology of the ancient palace of Westminster and its precincts see *Archæologia*, LX. (i) p. 131 sq. and H. Hall, *Court Life*, p. 114 sq., and *Antiquities of the Exchequer*, ch. I.—III.

These several repositories have been very loosely distinguished by ancient and modern writers alike; but although their contents in the shape of Records and treasure are frequently seen to interchange<sup>1</sup> it is possible to make some important distinctions.

In the first place, we have the central treasury found in historical times at Westminster and comprising the two main "treasuries" of the Exchequer of Receipt adjoining the Palace and the "great treasury" in the cloisters of the Abbey. The former of these was probably, in early times, merely the strong room of the Exchequer during the sessions of the court, becoming eventually the permanent receptacle of the more important Records in frequent use. The latter was apparently used by the Exchequer officials for the safe custody of the *Regalia* and the original instruments which might be regarded as the title-deeds of the crown<sup>2</sup>.

Besides these two ancient treasuries at Westminster, there were, as we have seen, the departmental "treasuries" of the King's Bench and Common Pleas also situated within the Palace precincts. These may be regarded as mere "over-flows" of the Exchequer treasuries to which the judicial Records had always been consigned for preservation when handed over by the justices.

Before the 16th century the royal treasury described by the author of the *Dialogus* had split up into four well-marked "treasuries" within the precincts of the Abbey and the Palace of Westminster<sup>3</sup>. These were eventually reduced to one, the chapter-house, as the older functions of the treasury were superseded by the "general repository" and "Record office" of later times. From this converted treasury the original diplomatic instruments of the crown with the great bulk of the fiscal and judicial Records were transferred to the Public Record office together with many of the chests and pouches in which they had been preserved for some 500 years. In this sense therefore the history of the ancient royal treasury can be traced from first to last; but in another direction we have to follow out the gradual formation of other central repositories containing in time a still larger and even more important class of historical Records, those which were derived directly or indirectly from the Chancery of the English kings.

<sup>1</sup> The 1800 Report on the Public Records shows that a few Chancery Rolls were still preserved in the Chapter House whilst a considerable number of judicial records had found their way to the Tower. Cf. Cooper, *Proposals for a General Record Office*, for an account of the Tower Records in 1832.

<sup>2</sup> Palgrave, *Kalendars*, I. 156. Powell's *Repertorie* (1631) mentions the ancient keys of this treasury as still preserved in the custody of the Exchequer officials.

<sup>3</sup> Powell, *Repertorie*, p. 15.

The close connexion of the Chancery of the Frankish and Norman kings with the royal chapel is well known<sup>1</sup>. In the same connexion we find from a very early period the Wardrobe or ante-chamber of the primitive Camera serving as a bureau or secretariat in which Records of the Chancery and Exchequer were frequently deposited for immediate use<sup>2</sup>. It was through this channel that a considerable portion of the contents of the old royal treasury was drafted into new repositories. But although for certain purposes of state the Wardrobe provided the machinery for the custody and distribution of the royal treasure and Records alike, the latter were presumably compiled by the king's clerks in the Chancery or chapel<sup>3</sup>. Long after the other courts of law had taken up a permanent habitation at Westminster, the Chancery continued to follow the king, so that like the king's court itself, in an earlier period, it was compelled to deposit the bulk of its Records in some central treasury.

Here again a distinction seems to have been made between Records which concerned the dignity of the Crown, and those which were required for official use. The former were consigned to the "great treasury" of the Wardrobe in the Tower of London, while the latter were bestowed in some temporary repository, such as the Temple Church. The connexion of both these repositories with the Wardrobe can be clearly recognized and, as of old, the custody of Records was associated with that of treasure and regalia. Even as early as the reign of Edward I the Wardrobe appears to have had the custody of a large collection of royal plate together with the relics in contemporary repute<sup>4</sup>, and we may also suspect that the notices of Records in several local repositories must refer to temporary branches of the "removing Wardrobe."

But although the position of these repositories of the Chancery Records can be identified from the reign of Edward I<sup>5</sup>, no attempt has apparently been made to locate the same class of Records in a still earlier period. Now a considerable mass of these Records must have accumulated since the reign of King John<sup>6</sup> and it is only

<sup>1</sup> Du Peyrat, *Hist. Ecclésiastique de la Cour*; Wattenbach, *op. cit.*; *Red Book of the Exchequer*, pp. xix sq., cccliii sq. and 807 sq.; Palgrave, *Kalendars*, Vol. I. xv.

<sup>2</sup> *Red Book*, p. xxi.

<sup>3</sup> As late as the reign of Edward III we find the Chancery clerks at work in the Church of St Peter at York, the court and seat of government being then at York. (Close Roll, 7 Edw. III Pt I. m. 3 d; *Ibid.* Pt II. m. 4 d).

<sup>4</sup> Palgrave, *Kalendars*, I. Appx.; Hall, *Antiquities of the Exchequer*, p. 28.

<sup>5</sup> Close Roll, 33 Edw. I m. 3.

<sup>6</sup> Of Chancery enrolments alone the number must have amounted to some hundreds, and in addition to these there was an extensive collection of writs and returns and miscellaneous

reasonable to assume that some permanent repository was provided for such Archives during the greater part of the 13th century. We know indeed from the evidence of these very Records that throughout the reign of John and again during the first years of the reign of Henry III the king's "houses" or "chambers" both in the Tower and in the New Temple were used for the preservation of treasure whilst the former was also the principal seat of the Wardrobe<sup>1</sup>. Again the Temple Church had been utilized as a branch treasury as early as the reign of Henry II<sup>2</sup>, and Chancery Records were certainly deposited here during the reign of Edward I.

On the other hand there is no direct reference to the preservation of Records either in the Tower or the Temple before the latter reign, and it is by no means inconceivable that during the whole preceding period the Chancery Rolls were preserved in the Exchequer, where the fiscal work of the Chancery was transacted in the 12th century<sup>3</sup>, or in the ancient treasury within the Abbey where there was also a branch treasury of the Wardrobe<sup>4</sup>. However this may be, it is clear that the Chancery itself still followed the Court and that its Records were not regarded as a fixture as were those of the Exchequer. The latter were examined on occasion by the royal writ directing search to be made by their custodians *in situ*; but when reference was required to the Chancery Rolls we find that they were usually despatched bodily to the king wherever he might be. The distinction is certainly significant<sup>5</sup>.

documents, apart from the documents in the custody of the Clerk of the Wardrobe or the Keeper of the Privy Seal (cf. *Foedera*, I. 521).

<sup>1</sup> *Calendar of Close Rolls John and Henry III* (Record Commission), pp. 141<sup>b</sup>, 351, 450, 508.

<sup>2</sup> *Exchequer Receipt Roll* (1185), pp. vi, 31. Cf. Pat. 9 Henry III m. 5 for the use of the strong-rooms of religious bodies by the Crown. In the reign of Henry III we find Hubert de Burgh's private treasure stored in the New Temple and seized there by the king (Matt. Paris, *Chron. Majora*, III. 232). An important political convention was executed here in 1281 (Liber B. fol. 309<sup>b</sup>). Wat Tyler's rebels are reputed to have burnt records here. Cf. also Close, 20 Edw. I m. 13<sup>d</sup>.

<sup>3</sup> *Dialogus*, I. v., vi. The diplomatic work of the Chancery was doubtless performed in the *Camera Clericorum*, which would be found in every royal palace.

<sup>4</sup> Above, pp. 16 and 18. Payments made during the reign of Henry III for the working expenses of the Chancery and Chapel occur in the same entries with payments for the Palace and Exchequer at Westminster (Close, 55 Hen. III m. 7). Madox however regards the separation of the two establishments as dating from the beginning of John's reign. Cf. *Antiquities of the Exchequer*, p. 83.

<sup>5</sup> Searches were made in the Chancery Rolls as distinguished from Exchequer Records in the reign of Edward II (*Red Book*, p. 953). Original treaties together with Papal Bulls appear to have been regarded as worthy of preservation with the traditional treasures of the realm. These instruments however properly concerned the Chancery alone. In fact it appears from an official memorandum in the 18th year of Edward II that the originals were



It is in this aspect, as we have seen, that the Chancery Records are associated with the Wardrobe during the second half of the 13th century. In another aspect the departmental activity of the Chancery is seen to be transferred before the close of this century to a new centre, the later Chapel of the Rolls, which may thus be regarded as superseding the old official establishment of the king's chapel at Westminster or elsewhere. The nature of this change is involved in the greatest obscurity, but it is perhaps possible to connect it with the financial operations of the Crown associated with the Temple and the strategical importance of the Tower during the civil wars of the period<sup>1</sup>. At the same time this settlement of Chancery clerks in the houses adjacent to the *Domus Conversorum* must not be regarded as a migration from an earlier judicial centre at Westminster, since the connexion of the Chancery itself with that palace cannot be clearly proved.

It is certainly curious, however, that the later judicial overflows both of clerks and Records were in the same direction<sup>2</sup>. In both cases probably the neighbourhood of Chancery Lane was the site most readily available for this purpose. In any case the fact remains that the three modern repositories, or Record offices, situated in the Abbey of Westminster, the Tower and the Rolls Chapel respectively, were the lineal successors of mediaeval repositories on the same sites, and that distinct classes of Records were preserved in each of these repositories.

From the end of the 13th century, then, we find the Chancery Records in current use preserved in the vicinity of the Inns of Court where the Chancery masters and clerks had their habitation<sup>3</sup>. Owing to the departmental character of the business of this Court, the custody of writs and returns, petitions and pleadings, was naturally assumed by particular clerks or groups of clerks. Probably the line which divided the king's clerks from a college of notaries and the latter in turn from a corporation of cursitors was not very sharply drawn in the 14th century<sup>4</sup>. Thus the successors of the clerks who

allowed to accumulate in the hands of the king's clerks before they were transmitted to the Exchequer Treasury (*Red Book*, p. 1042). Cf. also Palgrave, *Kalendars*, I. 2.

<sup>1</sup> The New Temple was accessible both from the Tower and Westminster by water. The House of the Friars Minor in Chancery Lane was another repository of bonds connected with these financial transactions in which the City merchants were subsequently concerned and which were entirely managed by the Chancery and Wardrobe. There was also in the 13th century a close connexion between the king's clerks and the Church of St Paul's.

<sup>2</sup> Cf. Appendix II.

<sup>3</sup> For the history of the clerical settlement in Chancery Lane see G. J. Turner, *Lincoln's Inn*.

<sup>4</sup> The famous *dictum* of Matthew Paris—*Ars notaria non habetur in Anglia*—must certainly be discounted before the close of the Middle Ages.

dwelt about the Chapel of the Rolls in the 13th century were still found there in the 19th with current Records in their private custody<sup>1</sup>. But as these Records accumulated it must have been found desirable from a very early date to collect the more important classes in a local repository where they could be readily accessible<sup>2</sup>.

Now the Chapel of the *Domus Conversorum*, a familiar landmark even in the time of Matthew Paris, served this purpose admirably. From the year 1307 we can date the long succession of Chancery clerks who were at once keepers of the *Domus Conversorum* and of the Rolls of Chancery<sup>3</sup>, both of those preserved in the Chapel of the Rolls and of those from time to time transferred to the Tower.

This assimilation of the offices of Keeper of the Converts and Master of the Rolls was formally completed in the year 1377<sup>4</sup>.

We are indeed assured by older antiquaries<sup>5</sup> that the Master of the Rolls was charged with the custody of the Chancery Rolls dating from the reign of Richard III, the earlier rolls being preserved in the Tower, which thus served as the ultimate repository of the Chancery Records. To this repository transmissions were made between the reigns of Edward III and Richard III<sup>6</sup>, but in course of time these Records were placed in the custody of a separate keeper, and a fierce dispute was carried on in the 16th century between the latter and the Master of the Rolls with regard to their respective jurisdictions<sup>7</sup>.

The history of the provincial repositories of Records is a subject which properly belongs to the department of the local historian. It is possible indeed to trace the more important transfers of the Records from one strong-place to another since the reign of Henry II. With

<sup>1</sup> 1800 *Report of the Commissioners of Public Records; Red Book of Exchequer*, p. 1042.

<sup>2</sup> Searches made by the Keeper of the Rolls for departmental purposes are referred to as early as the 19th year of Edward II (*Red Book*, p. 956).

<sup>3</sup> Adam de Osgodeby, who had been appointed Master of the Rolls in 1295, was made Keeper of the House of Converts in 1307. The two offices may have been held together from a still earlier date.

<sup>4</sup> Pat. 51 Edw. III m. 20. For the history of the Rolls Chapel see the accounts by Sir H. Maxwell Lyte in the *Fifty-seventh Report of the Deputy Keeper of the Public Records* and by Mr W. J. Hardy in *Middlesex &c. Notes and Queries*, II. 49.

<sup>5</sup> Powell, *Repertoire of Records*, p. 5.

<sup>6</sup> Ayloffe, *Calendar of Tower Rolls*, p. xxvi. Cf. Pat. 11 Edw. IV P<sup>t</sup> I. m. 24. The accounts of the clerk of the Hanaper contain inventories showing that a "king's messenger" with a pack-horse and groom were regularly maintained on the establishment of the Chancery for this purpose.

<sup>7</sup> Edwards, *Libraries*, p. 247; Cooper, *Proposal for a General Record Office*, Appx. D. The question seems to have been decided in favour of the Master of the Rolls in the case of Sir Roger Wilbraham, whose independent appointment as Keeper of the Tower Records was vacated by the Privy Council in 1604 but only in virtue of the jurisdiction of the Master over the Chancery Rolls (R. Hist. Soc. *Camden Miscellany*, Vol. x. p. 80 n.).



the exception, however, of the temporary removals of the whole or the greater part of the curial records in connexion with the transfer of the administrative machinery to the north or west during the wars with Scotland and Wales respectively<sup>1</sup>, these removals have no influence upon the continuous custody of the State Archives in the capital itself. At one time or another Winchester, Northampton, Southampton and other strongholds were utilized as repositories of treasure and Records alike, but no traces of their position have survived<sup>2</sup>.

More interest, perhaps, attaches to the transfers of Records from Scotland<sup>3</sup> and Ireland<sup>4</sup> to London, and to the preservation of Welsh Records in the Edwardian Castles or later Sessions Halls<sup>5</sup>, but these questions concern the history of other national establishments.

It has been previously stated that the history of the mediaeval Record repositories in this country can be traced in outline from the middle of the 12th century. It might even be conjectured that in a still earlier period the "Keeper of the Chapel and Relics" was responsible for the safety of the few manuscript treasures which were preserved in the immediate vicinity of the itinerant court, although we can scarcely suppose that the *Magister Scriptorii*, who appears in the reign of Henry II, had a position analogous to that of the *Custos Rotulorum* in a later period.

Naturally we learn a great deal more about the *personnel* of the Exchequer treasury than about the corresponding staff of the Chancery repositories, but in each department we find great officers of State associated in the charge of the Records whose lieutenants gradually assume the sole responsibility for their safe keeping<sup>6</sup>. In the one case we have the Treasurer and the Chamberlains, and in the other the Chancellor and the Keeper of the Rolls. Below these are the ushers and serjeants who have the actual handling of the Records,

<sup>1</sup> Cf. *Dialogus* (Oxford ed.), p. 44; Hall, *Antiquities of the Exchequer*, p. 74. Cf. Pat. 16 Ric. II Pt II. m. 21; Close, 28 Edw. I m. 6 d; *Ibid.* 20 Edw. I m. 13 d; *Ibid.* 7 Ed. III Pt I. m. 12 d; *Ibid.* 15 Ric. II m. 3 d; *Ibid.* 16 Ric. II m. 10; *Ibid.* 22 Ric. II Pt I. m. 13.

<sup>2</sup> Hall, p. 11. Cf. Pat. 16 Edw. II Pt I. m. 28.

<sup>3</sup> Cf. M. Livingstone, *Guide to the Public Records of Scotland*, pp. vii—xviii, and the authorities cited in that work, and in J. Bain, *Calendar of Scottish Documents*, Vol. I. Preface; F. Palgrave, *Scottish Documents*, Intro.; J. Ayloffe, *Calendar of Ancient Charters*, Intro.; W. Robertson, *Index of Scotch Records*, p. 1; W. Thomson, *Acts of the Parliaments of Scotland*, Vol. I. p. 107.

<sup>4</sup> *Red Book*, p. 976.

<sup>5</sup> See Appendix I, c.

<sup>6</sup> *Red Book of the Exchequer* (Rolls), p. cclxxxvii sqq.; *Antiquities of the Exchequer*, p. 77 sqq.

or who contract for supplying the necessities of the Office. In the earliest period, however, we notice a tendency towards specialization, whereby the custody of particular classes of Records is entrusted to special officers, such as the Exchequer marshal and the keeper of the Chancery Hanaper. Later still, during the early part of the 14th century, we find the Exchequer divided for administrative purposes into several distinct departments, each of which retained the entire control of its own Records<sup>1</sup>. The example of the Exchequer was followed by the other courts in turn, until in the first year of the 19th century we find the Public Records scattered through no fewer than sixty official repositories<sup>2</sup>.

From a very early period the custody of the Records of the Crown involved some attempt in the direction of their arrangement and the description of their contents for convenience of reference. For this purpose a number of writs were issued at different dates, from the beginning of the 14th century onwards<sup>3</sup>. We may certainly suspect that these operations were directed by the Crown with a view to vindicate its prerogative in various quarters. From another point of view the officials had a direct interest in the preservation of precedents which might affect their privileges and perquisites<sup>4</sup>. Finally we can distinguish the germ of the later constitutional theory that the Records at large were preserved by the Crown for the benefit of the whole community<sup>5</sup>, and from this position it is only one step (in point of principle) to the establishment and maintenance of a central Record office at the national expense. This single step proved, however, to be a long one, for it was not actually taken until the middle of the 19th century.

On the whole few more praiseworthy intentions can be placed to the credit of our earliest sovereigns than this solicitude for the safety and utility of those Records which they rightly estimated as the "chiefest jewels of their crowns<sup>6</sup>." At the same time, in spite of a general

<sup>1</sup> The offices of the two Remembrancers may be given as instances, and one of these has still the custody of certain Records (*Red Book*, p. 863 sq.).

<sup>2</sup> *Deputy Keeper's 23rd Report*, Appx., p. 60.

<sup>3</sup> *De supervidendo rotulos. De rotulis, &c., in recto ordine ponendis. De bullis, chartis, &c., in kalendario certo ponendis, &c.* In the reign of Edward II the arrangement of the Tower records was reserved for the king's clerks (*Abbrev. Plac.* p. 343). See Appendix I, F.

<sup>4</sup> These were frequently entered in a separate form in registers such as the Red and Black Books of the Exchequer. Cf. *Red Book*, p. 822 sq.

<sup>5</sup> *Rot. Parl.* II. 314.

<sup>6</sup> Prynne, *Parliamentary Writs*, Vol. IV. (Dedication); Ayloffe, *Calendars*, p. iii sqq. In 1853 a War Office report on the Tower garrison states that the Records are the most valuable of its contents and the best deserving military protection. In addition to the writs

agreement upon the principles to be pursued in dealing with the national Records we have to deplore almost incalculable losses through premature decay and systematic abstractions. These losses are chiefly due to the deliberate neglect of later official custodians and to the still more wanton refusal of the parliaments and ministries of the 18th and even of the 19th century to adopt the simplest precautions for their safe-keeping<sup>1</sup>.

The explanation is simple. As long as the Records were regarded as part and parcel of the contents of the treasure of the Crown they were guarded with the same jealous care as the other contents of the royal treasuries<sup>2</sup>, but the growth of the departmental system gave opportunities for abuses which could not be easily checked. In fact the clerks of the rolls and writs and their subordinates came to regard these Records as a source of income by means of office fees. Such Records as could obtain access to the light and air survived, and, as with the Sibyl's books, their market value was enhanced by the destruction of their fellows.

Certainly the anxiety displayed by enlightened antiquaries to save some specimens of historical evidence from these putrid heaps of parchment brought grist to the mills of their custodians. The missions of Brequigny and other foreign scholars are instances in point. By dint of groping on his hands and knees amidst the dust and corruption of the low-roofed cock-lofts of the Exchequer treasuries and by driving hard bargains with the patent officers of the Rolls Chapel and the Tower, a great French antiquary was able to rescue some twelve thousand historical documents from oblivion and probable destruction<sup>3</sup>. These official abuses were severely stigmatised by Sir Harris Nicolas<sup>4</sup>, though the excuse pleaded, that the officers received inadequate salaries from the Crown, may perhaps shift the responsibility from the individual to the State.

alluded to above, the proceedings taken in the political trials of 1289 (Assize Rolls, Nos. 541<sup>a</sup> and 541<sup>b</sup>) and 1399 (*Rot. Parl.* III. 418) and the statutes against their falsification may be noticed as early vindications of the importance of Records. Earlier still their value in connexion with the constitutional disputes with the Papacy and the Scottish nation was clearly recognized.

<sup>1</sup> Cf. above (Introduction), p. 7. It would probably be a matter of some difficulty to compile even an approximate list of disasters to Records by fire or wanton destruction, still more of losses through negligent custody or ignorant suppression. The subject, however, is one that is sure to receive more attention as the value of the surviving Records becomes enhanced.

<sup>2</sup> This is well seen in the indentures executed for the delivery and return of Records from the Treasury during the Middle Ages (Palgrave, *Kalendars and Inventories*). Cf. stat. 5 Hen. IV c. 14 on the "imbesilled" Notes of Fines in official custody.

<sup>3</sup> *Delpit*, p. xvi; *Black Book of Exchequer*, s.a. 1672; Carte, *Rolls Gascons* (Préface).

<sup>4</sup> *State of Historical Literature*, p. 9 sq.

At the same time it is impossible to avoid the conclusion that this increasing interest in original authorities and constitutional precedents led to the wholesale abstraction of public documents from official custody. The rich spoils of the monastic muniment rooms were largely appropriated by private collectors, and the eventual loss sustained by the nation is not to be counted only by the destruction wrought through the inadequate housing of its Records. As for such Records as were still preserved in provincial repositories, but a small percentage had survived at the beginning of the last century. The cause of this further loss is not difficult to find when we know the fate of the great collection of local Records once deposited in Dover Castle<sup>1</sup>. Almost within living memory the public Records have been sold for glue by the soldiers and workmen employed to remove them from one pestilential vermin-haunted den to another<sup>2</sup>, and to this day ancient Records are still preserved in isolated repositories in spite of the Act of 1838.

The story of these offences against the national honour has often been told in the plain, unvarnished language of the indignant modern antiquary<sup>3</sup>. It must not be supposed, however, that this scandalous neglect of a public duty was allowed to pass without a protest or some proffered remedy. So far the Crown had done little more than indulge in platitudes concerning the sacredness of legal records, varied by the occasional employment of some learned clerk to close up the gaps in the series. But other interests were at length awakened. The great lawyers of the school of Dyer presented a petition to Queen Elizabeth for rebuilding and enlarging the Record treasuries at Westminster. Antiquaries like Stowe and Camden vied with zealous officials such as Agarde and Bowyer in calling attention to the subject. In the next reign we find men of learning and discernment like Francis Bacon propounding a scheme for a "general Record office," which was actually authorised by letters patent in the year 1619<sup>4</sup>.

The failure of the Parliaments of the Commonwealth to devise any

<sup>1</sup> *Archaeologia Cantiana*, I. 53, 54.

<sup>2</sup> *Parl. Papers*, 1836, Vol. XVI. See also the Report of the House of Lords Committee in 1840 on the destruction and sale of Exchequer Records.

<sup>3</sup> F. W. Maitland, *Memoranda de Parlamento* (Rolls), p. xiii; A. C. Ewald, *Our Public Records*, p. 14 sq. For the earlier official view of the matter cf. *Q.R.* Vol. XXXIX. and *Fraser's Magazine*, 1862.

<sup>4</sup> Although the business of this new office was concerned only with the registration and verification of titles to land, this obviously involved the proper arrangement and preservation of a large class of Records. The whole scheme however fell to the ground (Edwards, *Libraries*, p. 247). For the Elizabethan agitation, cf. *S. P. Dom.* XLVII. 17.



means for the better custody of the Records which had proved of such value in justifying their cause, must always be regarded as a deep reproach to the party of progress. We are scarcely surprised, however, to find that after the Restoration matters went from bad to worse. Devoted scholars like Prynne, Madox, and Le Neve laboured with their own hands to cleanse and arrange the Records and to make their contents available for historical study. No real progress was made during the remainder of the 17th century, but with the reign of Anne we have the beginning of a protracted enquiry, which was not concluded till the year 1837.

For this new movement the nation was indebted to the scholarly instincts of Robert Harley, though the solemn warnings of the great antiquaries of the Restoration period had indeed caused a general uneasiness to be felt on the score of the safety of the Records. The official enquiry, which occupied the whole of the reigns of Anne and George I, resulted in the Reports of the Committees of the Lords and Commons in 1719 and 1732, but although the effect of these Reports was enhanced by the shock of the great fire at Ashburnham house, the condition of the Records had not been perceptibly ameliorated when the next great survey was made in the year 1800.

Indeed by far the saddest part of the story of this national disgrace is that which reveals the perfect consciousness of the authorities as to the real state of affairs. On the whole the burden of blame must be borne by the ministers of the Crown and by the later Parliaments which allowed the urgent recommendations of their committees to remain unheeded. Again and again we find the officials of some temporary repository of legal Records representing the absolute necessity of removing its contents to a place of safety. After years of delay the necessary order is given, and after a further period of official procrastination, illumined by various destructive fires, the Records are still found in festering heaps in the same position.

It is true that in 1763 certain learned antiquaries were appointed to "methodize" the Records<sup>1</sup>, but thirty years of "methodizing" produced no more beneficial result than the publication of a few imperfect calendars or texts.

In 1772 the report of a Committee of the House of Commons led to the establishment of an official copying department in connexion with the Rolls Chapel to avoid the practice of removing Records to the private residences of the officials, which had been usual since the 13th century<sup>2</sup>.

<sup>1</sup> Edwards, *op. cit.*, p. 270, and below, p. 41.

<sup>2</sup> *C.J.* xxxiii. 791.



In 1788 and 1789 yet another committee reported strongly on the state of the Record repositories surrounding Westminster Hall, and, after a further report in 1793, some of these houses were pulled down to improve the approach to the Hall itself, and their contents were removed to somewhat safer quarters in Somerset House<sup>1</sup>.

It is not necessary to go outside the report of the Record Commission in 1837 for an explanation of the failure of Parliament to deal with this vital question, neither is it desirable to review here the merits of the bitter controversy to which the policy of the Commission had given rise<sup>2</sup>. But when we read the complacent verbiage of this Report we cannot but reflect that from the death of Charles I to the accession of Queen Victoria nothing had been done to ensure the safety, the necessary repairs and the proper arrangement of the Public Records. Whilst the ministers of that day were intent on cheapening the humble accommodation demanded by experts for the security of the national Archives at the crisis of their fate, the officials who should have been engaged in their jealous preservation were employed as sub-commissioners in preparing worthless texts, imperfect calendars, and misleading indexes at a total cost to the nation of some hundreds of thousands of pounds. And then we recall the days when, with a stroke of the pen, even kings like Edward II could require the contents of their Record treasuries to be arranged, and could find a bishop designate to do the work with his own hands<sup>3</sup>.

The famous Commission on the Public Records was probably allowed to expire in 1837, in consequence of the unfavourable report of a Select Committee of the House of Commons in the preceding year<sup>4</sup>. Meanwhile the party of reform was preparing to bring in a private Bill for the establishment of a general repository for the Public Records, but the matter was allowed to drop upon an assurance being given by the Government that a public Bill for this purpose would be introduced at the first opportunity. Thus the Public Record Office Act of 1838 was passed "to establish one Record Office and a better custody, and to allow the free use of the said Records<sup>5</sup>."

The immediate effects of the Act were not, however, great. The

<sup>1</sup> *C. J.* XLVIII. 848.

<sup>2</sup> Cf. Sir H. Nicolas, *State of Historical Literature*, p. 85.

<sup>3</sup> Palgrave, *Kalendars and Inventories*, I. p. 1.

<sup>4</sup> *Parl. Papers*, 1836, XVI., and the evidence separately published (*Papers and Documents*, 1837).

<sup>5</sup> 1 and 2 Vic. c. 94 in connexion with the second section of which must be considered the Order in Council of 5 Mar. 1852.

Rolls Chapel was practically recognized as the centre of the future establishment, and all the Records of the Chancery were forthwith transferred to the custody of the Master of the Rolls. But before the remainder of the scattered Records could be transferred to the same custody a new central repository had to be provided, together with an adequate clerical staff. Even now the transfer might have been indefinitely protracted but for the firmness of Lord Langdale, then Master of the Rolls<sup>1</sup>. At length in 1839 a start was made in a humble way with an establishment which had its headquarters at the Rolls House, whence a general supervision was exercised over the old repositories, which were now regarded as branch offices. Many years of course elapsed before the bulk of the Public Records was safely housed, and the work was not then nor is it even now completed. It has kept pace with the extension of the great repository in Fetter Lane, and it has involved the seemingly interminable task of the arrangement and description of newly discovered treasures.

It is perhaps in this direction that the progress effected during the late reign appears most striking; but the credit of opening up this mine of knowledge to the whole body of students does not belong to the Government alone. We are indebted, it is true, to official industry for the long and valuable series of Deputy Keeper's reports and for the hundreds of calendars and chronicles which have made the "Rolls Series" famous throughout the world. More recently still immense improvements in the method of official publications have been introduced by Sir Henry Maxwell Lyte. The desultory appendices to the Deputy Keeper's reports and the ragged manuscript lists, which were formerly in use in the public search rooms, are giving place to a new series of printed inventories<sup>2</sup> which bear evidence of a concentrated arrangement of the Records, which was impossible so long as they were preserved in isolated repositories and which has been accomplished none too soon.

It is possible, indeed, that the very publicity and facility of access which have resulted from these striking reforms may eventually prepare a fresh danger, which will demand in turn an extraordinary remedy. In the dark days of ignorant neglect the Records at least escaped the wear and tear of frequent reference. But the Record, we

<sup>1</sup> *Deputy Keeper's First Report*, pp. 67—73. The Treasury held out for another ten years in the expectation that the Victoria Tower at Westminster would be found available for this purpose.

<sup>2</sup> Public Record Office "Indexes and Lists." A good account of these important innovations by Mr E. G. Atkinson of the Public Record Office will be found in the *Revue Internationale des Archives* (1895—6).

are told, was made in order that it might be searched<sup>1</sup>. To be worn out in the public service is a fate which it can no more escape than its custodians. All that can be done to prolong its existence is being rapidly accomplished by means of wise precautions and ingenious devices.

Whether the publication of Record calendars is calculated to avoid the necessity of referring to the original MS. is an academic question upon which the authorities disagree, whilst the relative merits of texts in record type, of extensions and of an English version cannot be easily decided. Of one thing, however, there can be no doubt at all; that if the vast sums which have been squandered since the beginning of the 18th century upon publications which fail to bring us into touch with the original Record were now available, the reproduction in facsimile of the whole series of our earliest Records would afford a practical solution of the difficulty, and one which will perhaps be sought for in our own time.

There is one more question to be considered in connexion with the custody of the Public Records, and it is one which deeply concerns the preservation and especially the accessibility of the modern series of these historical materials for the use of future students. The conventional view of the custody of the Public Records of this country can only compass the official environment of the royal Archives in the ancient buildings of the metropolis; but Records of an admittedly official character are stored outside these limits in the personal custody of local magnates and officials. More than this: the wider view of the public interests which was first permitted by the great political reforms of the last century has, in our own day, enabled us to realize that the "Local Records" which were once regarded as purely private muniments, and which are still treated accordingly, are part and parcel of the nation's title-deeds<sup>2</sup>. That this view has led to a widespread interest in the better preservation of these local Records, on purely historical grounds, and to an admirable scheme of permissive legislation for this purpose must be regarded as a highly satisfactory achievement<sup>3</sup>. It has also drafted a new chapter in the history of the custody and classification of the Public Records which lies beyond the scope of our present enquiry<sup>4</sup>.

<sup>1</sup> *Scrutare rotulos* is a formula as old as the 13th century.

<sup>2</sup> This obvious devolution has been effected without question in the administration of the decrees for the centralisation and custody of the national and provincial Archives in France, Belgium and the Netherlands.

<sup>3</sup> Report of Committee on Local Records (1902).

<sup>4</sup> See Appendix I, E.

*(b) State Papers.*

In one aspect the history of the State Papers closely resembles that of the legal Records; in another aspect these documents will indicate a new development in the composition and custody of the State Archives. For the former view we were to some extent prepared by the purely ministerial character of a large section of mediaeval diplomatic documents, and from these the ministerial papers of the 16th and 17th centuries might seem to have been lineally descended. The analogy, however, could not be very successfully maintained. It is true that a letter is a letter, whether it was penned in the 13th century or in the 16th, and whether it is expressed in Latin, in Old French or in the vernacular which was able to survive all foreign agencies. Again a close resemblance might perhaps be traced between the modern State Papers relating to domestic, foreign, and colonial or provincial affairs and their mediaeval counterparts in the shape of the Chancery enrolments dealing with public administration, finance, commerce, ecclesiastical matters and the kingly state; or with foreign and colonial relations, according to a geographical arrangement which endured for many centuries. These official enrolments were even continued in a few instances<sup>1</sup> down to modern times, but this very continuity only accentuates the altered character of the great mass of later correspondence.

In spite of the clerical activity of the shadowy "Prothonotary" of the early Chancery, and the traditional descent of the later Secretary of State from the household Secretary of the Plantagenet kings, nothing can be more clear than the distinction between the ministerial Records of the mediaeval Chancery and the "Papers of State" which are gathered into a new collection from the reign of Henry VIII. In some respects a much closer connexion existed between the office of the later Secretary of State and that of the earlier Keeper of the King's Signet, a connexion which even involved the custody of diplomatic instruments as formal in their construction as those of the Chancery itself. But here once more we have to make a distinction between official instruments and official correspondence. Although both classes of documents were executed and received by the same department in mediaeval or modern times alike, the former were in most cases merely the first drafts of royal acts that were finally recorded in the Chancery, whilst the latter were chiefly muniments transmitted from the first into the Treasury or some other recognized

<sup>1</sup> *e.g.* the Patent, Close, French, Dispensation and Coronation Rolls.



repository<sup>1</sup>. Thus the continuity of the custody of State Papers in the Treasury of the Exchequer is really unconnected with their execution or enrolment by the Chancery, and it is noticeable that this fact was persistently alleged by the old official archivists, and that it is confirmed by the preservation in modern times of a large mass of actual State Papers in the Chapter House at Westminster<sup>2</sup>.

But although it would be unwise to push the analogy between the construction and preservation of the ancient and modern State Papers too far, it must certainly be admitted that mediaeval forms and usages were projected far into the period of modern history as usually defined. In the reign of Henry VII we meet with little else than formal instruments composed in Latin and French, and even the manor hall and the merchant's counting-house could produce specimens of the cursive, vernacular writings less laboured than those proceeding from the Privy chamber or the Wardrobe.

It is from the reign of Henry VIII therefore, and from the new political epoch which it inaugurated, that the modern series of State Papers must properly be dated, and there can be little doubt that the collection as a whole owes its existence to the new importance of the Secretary of State's office in that reign. From this time onwards the "papers and Records of State," as distinguished from the judicial Records of the Courts of Law and the private muniments of the Household, Parliament and Council, are found in and about the Courts of Whitehall or St James. Before long a separate repository is erected for their custody, the king's Library or Study, in theory, although, in fact, the meanest garret could be glorified by the designation of "the Office of Papers of State."

The "Study" at Westminster is mentioned in the reign of Henry VIII as a repository in connexion with the department of the Secretary of State. It is possible and even probable that for Westminster we should understand that outwork of the ancient royal palace, better known as Whitehall<sup>3</sup>. The collection here referred to was apparently in the official custody of Secretary Paget, and

<sup>1</sup> The *Liber Memorandorum* of the Exchequer, in which these transmissions were registered, extends to the 38th year of Henry VIII.

<sup>2</sup> These formed the chief contents of the "Second Treasury" in Agarde's time (*Repertoire*, p. 28).

<sup>3</sup> Whitehall was regarded in the reign of Henry VIII as included in the Palace of Westminster. It seems clear, however, from a memorandum by William Honnyng in 1544 (*Cal. of Letters, &c.* Vol. XX(11). 864 and 982) that the Westminster gate-house was the site of this "Study."



included some Records of more ancient date than the reign of Henry VIII. The bulk of it was, however, of this period, and, from an allusion which is found in the "remains" of a later keeper, we gather that the papers of Sir Ralph Sadleir were added at a later date<sup>1</sup>.

We have no further details of this early establishment until the beginning of the next century, for, although the statement that the State Paper Office was established by Letters Patent in 1578 occurs in every standard work of reference dealing with this subject, it can perhaps be shown that it has been made and repeated without sufficient warrant. At least some documentary authority might seem desirable for the verification of such an important event; and in any case the terms of alleged establishment would be highly interesting in themselves. At present, however, no better reference to this eventful instrument is forthcoming than a cautious allusion made by an interested party, a personal testimony of no good fame vouched at an interval of half a century<sup>2</sup>.

Our existing knowledge of the antiquities of the State Paper Office previous to the appointment of its first authentic keeper in the reign of James I is in fact derived from the unverified assertions of that functionary himself.

<sup>1</sup> See a cancelled passage in Sir T. Wilson's famous autobiographical narrative in *S. P. Docts.* I. 53.

<sup>2</sup> The authorities above referred to, which have been followed on numerous occasions by periodical writers, give us with great deliberation and frequent repetitions the following circumstantial statement: That Dr Wilson, "the first Keeper," was appointed "Clerk" of the Papers in 1578, by Letters Patent, to prevent their embezzlement, by the appointment of a certain place and a fit man chosen and sworn for registering and keeping the same in order and with due secrecy. Now apart from the fact that these details are merely borrowed from Sir Thomas Wilson's interested version of the antiquity of his own office, based on the recollections of his boyhood, it will be found that Wilson in fact makes no such statement as this. The year 1578 is not even mentioned by him, and we find that this eventful date has apparently been evolved by subtracting the 45 years, which Wilson tells us had elapsed since an incident of his youth, from the purely conjectural date 1623 assigned to his autobiographical note. Now as Wilson tells us here that his "uncle" was not yet Secretary of State at the date of this incident, and as we know that he was made Secretary on 1 January, 1578, this cannot in any case be the year indicated. Moreover Wilson merely states that the office was at that time in existence, and he elsewhere traces it back to the reign of Edward VI. Again the supposed reference to the object of the establishment of the office at this date is not to the year 1578 at all, but to the establishment of the office in the reign of James I. Of a piece with these remarkable misconceptions are the further references in our authorities to the official career of Sir Thomas Wilson himself, who is sometimes described as "Clerk" and at others as "Keeper" of the Papers either "at the beginning of the reign of James I" or on the surrender of Sir T. Lake about 1606, the real date of his joint patent being 15 March, 7 James I. Even those authorities who have referred to this patent have failed to render the date correctly, Devon giving the year as 1609 and Palgrave as 1608 instead of 1610. However, as this was strictly a reversionary grant, the date of his actual office is really 25 July, 1614.

Sir Thomas Wilson whose tenure of this office is connected with so many romantic incidents is certainly the last person whose assertion on such a subject can be implicitly accepted. To do Wilson justice, however, the assertion in question is merely inferred from a privileged narrative, made with every circumstance of heat and inaccuracy, which exists in his handwriting among the State Paper Documents<sup>1</sup>.

This autobiographical note is nevertheless of considerable interest and it is to be regretted that whilst the inaccuracies which it contains have escaped correction, some valuable hints which it affords have been allowed to remain unnoticed. As our present knowledge of the position and establishment of the State Paper Office previous to the year 1619 is at the best extremely limited and as even the few *data* which exist have been erroneously presented to us, a brief outline of the development of the Office down to the reign of Charles I may be attempted here.

From the close of the reign of Henry VIII to the accession of James I we find the Papers of State in the immediate custody of Secretaries of State like Sadleir and Paget or of confidential clerks, who rose in turn to that office, like William Cecil and Thomas Wilson<sup>2</sup>. Of these Papers the earliest in date with such as had been recovered from recent Secretaries were apparently preserved in the palace of Whitehall<sup>3</sup> with the Records of the Signet and the Council<sup>4</sup>. It is perfectly conceivable therefore that these early Papers were placed under the supervision of such an expert as Dr Thomas Wilson between the dates of his appointments as Master of St Katherine's Hospital in 1561<sup>5</sup> and as Secretary of State in 1578<sup>6</sup>, especially as in the year 1569 he received an annuity of £100 for making himself generally useful<sup>7</sup>. It is equally probable that after his appointment as Secretary of State, he relinquished the supervision of these Papers

<sup>1</sup> See previous note. It was long ago pointed out by Edwards (*Libraries*, p. 181) that this inference is unwarranted.

<sup>2</sup> The six great Secretaries of State to whose connexion with the State Papers Sir Thomas Wilson alludes, in the reign of James I, were probably Paget, Sadleir, Cecil, Walsingham, Wilson and Lake.

<sup>3</sup> For a more concise description of these official arrangements see the *Athenæum*, 26 Dec. 1903.

<sup>4</sup> We learn, on the authority of Sir Thomas Wilson, that it was the practice until the end of the reign of James I for the Council Records not in current use to be transmitted to the Paper Office, and as early as 1597 both Dr James and Sir Thomas Lake seem to have kept the Records in their charge in a repository under Queen Elizabeth's Banqueting Hall, which was rebuilt about 1606 (Hatfield MSS. Calendar, p. 431).

<sup>5</sup> Pat. 3 Eliz. Pt 6.

<sup>6</sup> Pat. 20 Eliz. Pt 10.

<sup>7</sup> Pat. 13 Eliz. Pt 1. The immediate motive of this grant was probably to reward Wilson for his exertions in investigating conspiracies against the Crown.

to another learned Doctor, William James, who like himself was attached to Leicester's interest. It does not appear that any grant of office passed in either case and it is significant that although a grant under the Great Seal is alluded to by Sir Thomas Wilson in the next reign, the reference in support of this assertion, "by the Letters Patentes and the cōpyes of them which remayne heer," has been erased with his own hand<sup>1</sup>. Now as Sir Thomas has elsewhere cited such grants on every possible occasion (and not always with complete justification), we may fairly surmise that he had failed to identify this particular grant on which as we have seen rests the familiar statement that the State Paper Office was established in the year 1578<sup>2</sup>. We may perhaps venture to surmise still further that if any such grant exists, it will be found to take the form of an annuity more or less directly connected with the extra-official task of reducing the early State Papers to order. This stipend is in fact stated by Sir Thomas Wilson to have amounted to an annual fee of £40. We know nothing apparently of the conditions of the employment of Dr Wilson's successor, but the above theory of the evolution of the early Keepership receives considerable support from the recorded appointment of Sir Thomas Lake in the first year of James I. Here again we have a reputed office, though Sir Thomas Wilson confines himself to the rather vague statement that Lake "got it" in succession to Dr James.

There is, however, a grant by Letters Patent<sup>3</sup> on this occasion which, although not technically regarded as an "Office" but as an "Annuity," certainly expresses the consideration for the grant to be Sir Thomas Lake's pains in "Keeping, airing and digesting" certain "Records of matters of State" passed in the days of the king's progenitors and remaining in the palace of Whitehall; the charge of which *has been* and is committed by the Secretary of State to the said Sir Thomas.

In this instrument we have at last a clear statement of the position of the office down to this date as being an employment within the patronage of the Secretary of State. The recognition of this employment for the first time as a distinct office is also clearly implied in the further provisions of the above Patent which explains that the king thinks it meet that a competent allowance should be made for Lake's charges and pains therein and concludes with an assurance to have and enjoy the keeping of the said Records *together with* the said annuity for life.

<sup>1</sup> *S. P. Docts.* i. 53.

<sup>2</sup> See above, p. 32, n. 2.

<sup>3</sup> Pat. 1 James I P<sup>t</sup> 18, m. 19, 1 June 1603.

From this point the history of the office may be traced without much difficulty, though numerous misstatements continue to disfigure the received account. It has been assumed, as we have seen, on the strength of his own assertion, that Sir Thomas Wilson was the first Keeper of the Papers under a definite appointment. This, however, was not exactly the case, for, although Wilson's name was joined with that of Levinus Munck in an original patent of 15 March, 1610<sup>1</sup>, it stands second and therefore his personal interest was strictly speaking a reversionary one. For Munck, as Salisbury's private Secretary (just as Lake had acted in the same capacity to Walsingham), had a prior claim to the new office, though doubtless its duties were executed by Wilson in virtue of a mutual understanding<sup>2</sup>.

It is probable also that Munck, who like Lake and Wilson was a clerk of the Signet<sup>3</sup>, succeeded in rotation to Lake's custody of the Papers upon the latter's preferment.

In fact there appears to have been a more or less definite system of promotion within the Secretariat whereby the minister's servants were required to surrender certain appointments on succeeding to others of greater value, and in accordance with this practice Wilson himself gave up his clerkship of the Signet on receiving the above patent<sup>4</sup>. Four years later Wilson seems to have made a further arrangement with his co-patentee as the result of which the patent of 1610 was surrendered and cancelled and a new grant was made to himself and his son-in-law Ambrose Randolph, or Randall<sup>5</sup>. This instrument recites the previous grant which was made with a view to collect the Papers of State "into a sett form of Lybrary" in some convenient place within the palace of Whitehall,

<sup>1</sup> No Sign-manual warrant, Privy Seal or enrolment of this patent appear to be known, and the cancelled original has been filed instead (Privy Seals, 1—24 March, 7 James I).

<sup>2</sup> Wilson appears, according to his memorials on the subject, to have drawn half the salary of the office and to have discharged all the duties of the same. In a later period the patentee mentioned second in the grant was regarded as the deputy of the person first mentioned.

<sup>3</sup> Pat. 3 James I, Pt 10. Signet Docquet, July 1603. We also find that Dr Wilson and Sir Thomas Lake were both Masters of Requests and that Sir Thos. Wilson considered himself entitled to a similar preferment. Singularly enough this system of preferment lasted till the end of the 18th century. Cf. below, p. 41, n. 2.

<sup>4</sup> He also surrendered his writership of the Bills of Imposts (not "Imports" as given in the *Dictionary of National Biography*) on receiving the second patent in 1614.

<sup>5</sup> The patent of 1610 was surrendered in Dec. 1613 and the new grant is dated 25 July following (S. P. Dom. Sign Manuals, Vol. iv. No. 45, and Pat. 12 James I, Pt 8, No. 17. This Ambrose Randolph was the son of the famous English agent in Scotland during the late reign. According to Wilson's own statement of the transaction Randolph seems to have found the money to buy Munck out.



to be at all times the readier for the king's own use and that of his Secretaries, for the better enabling them to do the king service. It is also noticeable that the previous grant was subject to the proviso that the grantees might be at any time removed on the recommendation of the Earl of Salisbury. The patent of 1614 continued the previous fee of 3s. 4d. per diem or £60 per annum, as against the £50 enjoyed by Lake and the £40 assigned to his predecessors from tradition.

In both patents the office granted is described as that of the "Keepers and Registers of Papers and Records of State," henceforth to be collected and arranged in an official Library. The Papers are also described in the patent of 1614 as those formerly remaining in the custody of Sir T. Lake, together with those recovered from the Earl of Salisbury, and any other Papers to be received from time to time from the Secretaries of State. The duty of providing accommodation for these documents seems to have devolved upon the new Keeper himself. Hitherto they appear to have been kept under the Banqueting Hall in Whitehall with the Records of the Council and the Signet which were injured there in the fire of 1619. Apparently they had been placed here by Lake, but we have no information regarding the date of their transfer from the "Study" at Westminster where we find them in the reign of Edward VI<sup>1</sup>. We also learn that these Papers were placed in "boxes" which may be identical with the chests used for this purpose in Paget's time<sup>2</sup>. In order to carry out the "sett order of a lybrary" contemplated by the patent of 1614 space was required for arranging the Papers on shelves. It can be inferred as we have seen from Wilson's memoranda amongst the State Paper Office Documents that the Papers were twice removed to a new repository within the Palace for this very purpose but owing to the misdating of these memoranda, their incoherent nature, and the confused tradition of a later period contained in the reports of subsequent Keepers it is difficult to form an exact idea of their position previous to the year 1619<sup>3</sup>. It would appear however that

<sup>1</sup> Above, p. 31.

<sup>2</sup> The Council Chest itself was used for some time to come as the receptacle for Papers of the Council in current use in the custody of the clerk. A box containing Records of the Council of Wales is also referred to in the reign of Elizabeth in the same connexion. It may be suggested that it was the Council and Signet Office Records (which were probably left where they had been found on Sir T. Lake's surrender of his office), and not the State Papers that were hastily removed and injured in the fire of 1619. This fact will explain an apparent discrepancy which has often been noticed in Wilson's letter to the king on this occasion.

<sup>3</sup> From a careful examination of the existing correspondence we may infer that when Wilson received his appointment in 1614 he obtained very suitable accommodation for the



soon after Wilson's appointment as Keeper a proper office was fitted up for the first time in some building adjoining the Privy Garden in Whitehall and that the Papers were again removed in the year 1618 just before the destruction of the old Banqueting House. During the remainder of the century the State Papers were housed in the tower of the Whitehall Gateway in two rooms opening into three closets and three turrets<sup>1</sup>.

To the zeal and energy of Sir Thomas Wilson the permanent establishment and organization of the State Paper Office has been justly ascribed. His personal share in these official innovations is represented by a number of precedents in his own hand including the terms of his patent of office, the oath of the keeper, warrants and orders of various kinds for issuing Records, for making searches and copies and for impounding outstanding Papers, from which perhaps we may gather that the red-tape with which this department was henceforth enswathed was chiefly devised by the first patentee with a view to enhance the importance of his office.

If all the precedents which we find in this collection are to be regarded as authentic, we should have some cause for wonder at Sir Thomas Wilson's achievements. It should, however, be pointed out that in some cases these instruments do not appear to have been executed, and we are even tempted to speculate whether some at

Papers in a new building which he fitted up at his own expense with wainscot cupboards or presses 10 ft. high and having 250 ft. run, together with two wainscot studies, desks and other furniture, all of which seem to have been removed to the new office in 1619. We know that this building was entered from the gallery and also by stairs which were not approached from the Privy Garden as another entrance was. There were several rooms here, and Wilson had extended his accommodation by bargaining for a larder belonging to the Earl of Worcester on the lower floor. If this building is identical with the "fair building," also newly erected, which Wilson applied for at this time, it was situated opposite the garden gate, near to the building where the Papers were placed in Lake's time. But the office coveted by Wilson was built of stone and that from which the Papers were removed in 1619 was of wood. In any case it is certain that the Paper Office was situated on the floor above Lord Worcester's lodgings in Whitehall, some time between 1614 and 1619, and that this floor was afterwards the lodging of the Earl of Carlisle. We may suspect that the sudden removal of the office in 1619 was due to the interest of Buckingham employed on behalf, probably, of the Earl of Carlisle himself, though the greater security of the Papers in the Stone Tower of the Whitehall Gateway is alleged as the reason for the change (*S. P. Docts.* 1. 32, 33, 86).

<sup>1</sup> This new office, which was on the floor immediately above the Duke of Lennox's lodging, was officially described as consisting of one great chamber which was apparently sub-divided. Wilson's original intention was to place the foreign Papers in the turrets and to obtain another room on a lower level underneath the passage between the two galleries which connected Whitehall Gate with the western area, whilst accruing Papers were to be provided for by building a room over the gallery next the tilting yard. It is interesting to find that Sir Christopher Wren recommended these expedients as an alternative scheme when the question of abandoning the Whitehall Tower was raised in 1706.

least of the warrants for Sir Thomas Wilson, drawn by Sir Thomas Wilson, or of the numerous confidential letters which purport to have been addressed by the same enterprising official to the king and to the great officers of State are anything more than trial drafts for his fixed design to educate official opinion upon the urgent question of the writer's personal merits and the dignity of his office.

But in spite of a pushfulness in which the knight excelled even his contemporaries, the recognition of his services was somewhat scanty. His office was a new one and its importance was scarcely appreciated, but in any case it was probably felt that with this patent and allowances for "extraordinaries," together with a political pension of £100, Sir Thomas might be regarded as decently provided for, in view of the crowd of hungry suitors who remained unsatisfied with reversionary presentations<sup>1</sup>.

These sordid details have a real importance for the history of the office, because here, as in the case of the legal Records, an efficient custody is found to depend to a very large extent upon a suitable official establishment. Keepers of Records and State Papers who were not in receipt of a living wage, or whose wages were paid with extreme irregularity, will usually be found devising some other means of subsistence to the grave detriment of their charge. Thus Wilson, whose salary was at one time seven years in arrear, was reduced to beg and cringe in an unseemly manner and to curry favour with the Court by the discovery of papers and books belonging to attainted or discredited courtiers.

Judged by his own admissions Wilson might not appear to us as an official custodian to whom marketable antiquities could have been safely entrusted, but as a matter of fact his bitter jealousy of other official antiquaries and his strong sense of self-importance proved of

<sup>1</sup> In addition to his interest in the patent salary of 3s. 4d. per diem as Keeper, Wilson seems to have claimed £60 yearly for the clerical establishment and expenses of his office under a dormant Privy Seal of 6 Nov. 1608, but this allowance was very irregularly paid, and it is not clear whether Wilson elected to be paid under this warrant or by the bills of costs for extraordinary expenses in making transcripts, searches and binding MSS. which he presented from time to time as lump sums. Wilson himself informs us that he kept two clerks engaged in searching and transcribing as well as a binder (*S. P. Docts.* 1. 41, 43, 45, 51, 52, 75). In the next patent granted in 1629 to Wilson's successors the salary was raised to 8s. 9½d. per diem, or £160 yearly, at which figure it remained till the beginning of the last century, the proportion due to the Keeper for salary being apparently reckoned at £60, with £100 for office expenses. As a matter of fact it is more probable that the establishment of £160 was taken from that propounded by Wilson himself during the last years of his keepership, the proportions being £60 for his office and £100 for his fee. The next Keeper, Raymond, was put in the same position as his predecessor by the grant of a pension of £100, and thus a definite precedent for the salary of £160 was founded.

inestimable service in recovering and securing the State Papers of his own time.

Moreover he chose to make an ostentatious honesty his chief recommendation for advancement as an official pluralist, and, failing due recompense for his labours by the State, he had conceived an ingenious scheme for receiving fees from the public by instituting two branch offices in connexion with his post as archivist<sup>1</sup>, an expedient which was successfully resorted to by the greatest of his successors<sup>2</sup>.

The interval between the death of Sir Thomas Wilson in 1629 and the appointment of Sir Joseph Williamson in 1661 is chiefly interesting for the efforts made by each of the political parties in power during the period to recover State Papers which were in danger of falling into private hands. These efforts, however, were attended with very slight success<sup>3</sup>, and it is not altogether reassuring to find that Sir Joseph Williamson, good scholar and zealous official as he was, contented himself with noting from time to time the alarming deficiencies in the transmissions of Papers to the office at Whitehall. Williamson indeed appears to have regarded the Papers in his custody as a source of historical and official information in his capacity of Secretary of State, chiefly using for this purpose those which passed through his own department. Thus, although he was able to endow the Office with an enormous number of curious but really useless commonplace books as the result of his life-long industry, the State was the poorer by many hundreds of volumes which passed out of official custody during this period<sup>4</sup>. Similarly whilst we may bestow some praise upon the comprehensive classification of the Papers which Williamson laid down and to some extent carried out by an actual arrangement<sup>5</sup>, we learn that at his death the Papers were found in a very neglected state, whilst no catalogue of any sort existed.

In fact, if we may credit the statements of his successor in the Office, Williamson seems to have treated his appointment as a sinecure, employing the clerks who should have attended to the Papers in the lucrative business of publishing the *London Gazette*

<sup>1</sup> A search office in connexion with the monastic cartularies, largely "embezzled" by his enemy Sir Robert Cotton, and a registry of the orders of knighthood.

<sup>2</sup> *The London Gazette* and the Office for Newsletters managed by Sir Joseph Williamson.

<sup>3</sup> *S. P. Docts.* II. 58.

<sup>4</sup> "Sir Joseph Williamson's" collection has now been broken up, but many miscellaneous volumes can still be identified amongst the "State Papers Miscellaneous." Some of his MSS. were apparently received by Queen's College, Oxford.

<sup>5</sup> See the plans of the office in 1682 in *S. P. Docts.* II. 49.

and in writing Newsletters to subscribers in the provinces<sup>1</sup>. Both these departments of the Office were apparently conducted with a sole view to the profit which they afforded, though at this date it would probably have proved impossible to maintain a clerical establishment without some such device for making good the deficiencies of a bankrupt Exchequer.

With the reign of Queen Anne<sup>2</sup> we find the condition of the Paper Office a matter of concern to the Lords' Committee for considering the state of the Public Records, and in the year 1706 steps were taken to improve their housing and a new repository was prepared at considerable expense, in the Cockpit, from the plans of Sir Christopher Wren<sup>3</sup>. This building, which was afterwards known as the Middle Treasury Gallery, became in turn the repository of the Treasury Records. The accommodation thus provided was insufficient, but the change averted the imminent destruction of the Papers in the unglazed attics which were henceforth abandoned as pigeon-lofts<sup>4</sup>.

Throughout the 18th century the history of the State Paper Office runs on parallel lines with that of the repositories of legal Records. There is indeed this general distinction to be observed that, whereas the latter were continuously preserved in an official custody which permitted the worst ravages of damp and vermin, the former suffered still heavier losses, not from natural causes but from their permanent abstraction from a custody which was plainly enjoined. To find

<sup>1</sup> Cf. *S. P. Docts.* II. 30 and Edwards, *Libraries*, p. 193.

<sup>2</sup> No mention occurs in any of our authorities of the appointment by William III of John Chamberlayne to succeed Sir J. Williamson. This statement occurs in the former's well-known *State of Great Britain*, 1704, p. 147.

<sup>3</sup> The Report of John Tucker on the state of the office as received by him at Williamson's death is in the *S. P. Docts.* II. 69, and full particulars of the enquiry will be found in the Lords' Journals and in the records of the Treasury and Board of Trade. This new receptacle comprised the floor with an area of 80 ft. long by 25 ft. wide over the Lord Chamberlain's lodgings in the "White Building" in the Cockpit; but it has also been described as the floor over the Treasury Chambers which had been recently used for the sittings of the Commissioners for the Union of England and Scotland (*S. P. Docts.* II. 108). It was better known at a later date as the Middle Treasury Gallery, which led from the Treasury to the Board of Trade.

<sup>4</sup> Some of the Council Records and miscellaneous State Papers were left behind and were rescued from their perilous position in 1763 or 1764 according to the received account, though as the Whitehall Gateway is said to have been removed in 1759 this statement must be accepted with caution. The Methodizers themselves state in their report of 1764 that the Gateway was removed some years ago (cf. below, p. 42, n. 2). In Hawkin's *Index to the Records* published in 1739 the Paper Office is stated to be "over the Gate by the Tilt-Yard," whilst the Records of the Council were kept in the Council Chamber in the Cockpit. In 1732 we also have a list of the Foreign Papers of recent date then preserved "in the Turret" which can only refer to the Whitehall Gateway (*S. P. Docts.* II. 116).



a parallel we must imagine the systematic removal of the rolls of the courts by the judges to their country seats; but it must be admitted that the possibility of such losses was chiefly due to the inept precautions devised during this period by the party of reform. Here again we have a close parallel with the proceedings and undertakings for the better arrangement of the legal Records.

Instead of utilising all their available resources for the improvement of the housing of Records and State Papers, for their thorough repair, and for their systematic arrangement, the Committees and Commissions of the 18th century preferred to serve the immediate interests of literature and history by employing experts to "digest" and "methodize" the contents of the State Archives<sup>1</sup>. At the same time a dual control was established in the case of the State Papers by the re-appointment of a "Collector and Transmitter" to secure the regular consignment of the Papers to official custody<sup>2</sup>.

The result of these experiments was disastrous in the extreme, for the Collector and Transmitter appears to have enjoyed a virtual sinecure in respect of both collection and transmission, while the methods of the "Methodizers" were beneath contempt. The distribution of the Papers between two independent repositories simply facilitated the process of abstraction by officials of all classes, and the recognized Keeper finding himself stripped of many of the former privileges and powers of his office resigned himself with a

<sup>1</sup> These "Methodizers" were not actually appointed as generally supposed, in consequence of the discovery of papers in the abandoned repository at Whitehall, but as the result of enquiry into the condition of the legal Records which was extended to the State Papers. The term "methodize" is found in the 1732 Report, and it is only fair to admit that the system was useful in the case of private collections. It was also hinted in certain official quarters that the reform was intended to prevent a recurrence of such an incident as the supposed abstraction of papers by the elder Pitt on resigning office in 1761.

<sup>2</sup> The most extraordinary misstatements have been made and accepted with regard to the date of the first institution of this office, which has been assigned to the year 1713, Edward Weston being described as the first Collector and Transmitter. Elsewhere the date is given as 1714, and this has been conjecturally emended as 1741 in the 1800 Report. The first appointments were however as follows: George Tilson by Patent dated 20 Jan. 1725; Edward Weston and Andrew Stone by Patent dated 18 May, 1738; Edward Weston and John Couraud by Patent dated 26 June, 1741; John Couraud and T. Ramsden by Patent dated 4 Jan. 1742. As Couraud and Stone were successively Keepers of the Papers, in 1738 and 1741 respectively, it would appear that the two offices were held more or less in common. The Transmitter received a salary of £400—£600. The ostensible object of the new system, namely to ensure the regular transmission of the contents of the Secretaries' Offices to the Paper Office, seems to have been completely lost sight of at an early date. The practical effect of the change was that the Transmitter's Office, which became the headquarters of the "Methodizers," got possession only of such modern papers as were spontaneously transmitted to them, and transmitted these when required for reference to the ministers of the Crown, by whom they were not in all cases returned (p. 52 n.).



good grace to draw his scanty official salary<sup>1</sup> without rendering any perceptible services.

The exact position of the repositories of State Papers during the 18th century has been the subject of further misapprehension. It would appear that upon the removal of the Papers to the Cockpit in 1706, the accommodation provided in the middle story of the Treasury Chambers was found inadequate, and the Papers subsequent to the Revolution<sup>2</sup> were accordingly deposited in rooms situated probably below the office of the Secretary for the adjoining Board of Trade Office. To these were added the accruing Papers transmitted by the Collector and those discovered in some Whitehall turret in 1763.

It was with this collection that the "Methodizers" were principally concerned on their appointment in the year 1764, though they also invaded the Paper Office proper and practically discharged the functions of the Keeper, who regarded his post as a sinecure. In 1782 when the old Board of Trade was abolished the Transmitter's Paper Office was removed to another suite, and in 1786 it was again removed to an old house in Middle Scotland Yard where presses were provided for the Papers<sup>3</sup>.

The last chapter but one in the history of the State Paper Office begins with the appointment of John Bruce as Keeper in the year 1792. This accomplished scholar was by the force of circumstances placed in a position of antagonism to the existing system of official custody and thus he proved himself not only a laborious and conscientious public servant, but also a very capable administrator<sup>4</sup>.

<sup>1</sup> The three Commissioners appointed to methodize the State Papers, &c. drew salaries of the total value of £700, as against the £160 allowed to the regular Keeper.

<sup>2</sup> This is the received account and from a glance at the Inventory of the Transmitter's Office in the 1800 Report it would seem to be correct. As a matter of fact, however, it is highly improbable that any such chronological division was made, as an inventory of the old State Paper Office shows that most of the series preserved there end with the year 1706 or thereabouts. This seems to indicate that all the Papers then removed from the Whitehall Gate Tower were placed in the new office in the Cockpit, and that the existence of papers of an earlier date than 1706 in the Transmitter's Office was due to the subsequent transmission of specimens which had been retained in the Secretaries' Offices in addition to those discovered in 1763.

<sup>3</sup> *S. P. Docs.* III. 87.

<sup>4</sup> At the same time we must not lose sight of the fact that the agitation for the reform of the custody of State Papers carried on by Bruce for more than ten years was a distinct bid for his own employment in the Service. He was moreover completely misinformed as to the early history of the Office and made numerous assertions with regard to it which are ludicrously inaccurate. Many of these have unfortunately been accepted without investigation.

During the eight years' struggle which ensued between the new Keeper, who insisted on the efficiency of his office, and the "Methodizers" and Transmitter, the former was stoutly backed by Pitt and Dundas against the covert hostility of Grenville and Portland. Certainly Pitt could have had no great reverence for an innovation which was commonly regarded as having been directed against his father's alleged suppression of diplomatic documents<sup>1</sup>, and moreover the obvious incapacity of these official interlopers was a serious hindrance to his own ministerial activity.

At length, in 1798, Bruce's scheme for a new establishment and increased efficiency of the Paper Office was approved, and a warrant was issued two years later for its execution.

It is well known that this important reform was accompanied by the issue of the First Report of the Commission on the state of the Public Records, which made an end of the whole fraternity of Transmitters and Methodizers.

The State Papers which had been detached by the Transmitter still remained at Scotland Yard till 1819 when they were transferred to a house in Great George Street. Finally in 1833 the whole of the Papers were removed to the new Paper Office in St James' Park, where they remained until the amalgamation of the State Papers with the Records in 1848<sup>2</sup> was completed in 1862 by the transfer of the whole collection to the Rolls Office.

### *(c) Departmental Records.*

This is not the place in which the history of the State departments at large can be treated of directly. A sufficient reason may be found in the mere fact that by no means all the departments which have survived are possessed of historical documents in official custody. At the same time the evolution of the existing departmental collections is a subject which necessarily involves some examination of the circumstances of their earlier custody. For this reason we may at least endeavour to ascertain the distribution of the Records in successive periods, even if we must limit this examination to a brief enumeration of the departments concerned.

<sup>1</sup> Knox, *Extra Official State Papers*, p. 11. The original Report is in the Records of the Board of Trade. Dundas had been favourably impressed by Bruce's efficiency in supplying Papers connected with the urgent question of Internal Defence. Many of these, unfortunately, were not returned to the State Paper Office.

<sup>2</sup> Treasury Minute, 8 Aug. 1848. The transfer was effected by the Order in Council of 1852.

In the earliest period of the royal administration in this country all offices outside the King's household were executed by a class of ministers or special agents, who in many cases were merely royal clerks, detached for such service from the Court itself<sup>1</sup>. For all other purposes the feudal machinery of the Court and Household sufficed to supplement and control the local system of self-government. This effectually provided for the economy of the king's house and chamber, the administration of justice, the collection of the revenue, military operations and other matters which now chiefly engage the attention of the public departments<sup>2</sup>. Some of these official duties continued to be discharged for several centuries by a similar agency<sup>3</sup>, but from an early date it was found desirable to supplement the operations of the great hereditary offices of State by the employment of clerical experts, whilst the development of an extraordinary revenue and of international relations created a large staff of special agents as ambassadors, clerks, surveyors, paymasters, collectors, comptrollers, receivers, keepers, farmers<sup>4</sup>, &c. In course of time these special agents, or official patentees, are grouped together for certain purposes, each of these groups forming the nucleus of a later department, the individual patentees being in some cases still recognizable as the heads of sub-departments<sup>5</sup>. By the side of these new-modelled departments, several of the old patent officers, agents and contractors are still employed as before<sup>6</sup>, but during the 17th century there is a marked tendency for the great offices of State to be placed in commission, a policy which facilitated the clerical organization of the departments involved<sup>7</sup>. At the same time we shall look in vain for any continuous or considerable collection of Departmental Records in official custody outside the royal Household and the Courts of Law previous to the Restoration. That such Records existed from the middle of the 16th century is, however, certain, for a considerable number may still be found interspersed with the general series of State Papers and preserved in certain private collections. The departments to which these refer may probably be distinguished as follows: the Royal Household in its main

<sup>1</sup> Cf. Stubbs, *Oxford Lectures*, vi.

<sup>2</sup> Cf. *Dialogus de Scaccario*, i. v.; *Red Book of Exchequer*, Vol. III. Preface; *Ordinances of the King's Household* (Soc. Antiq.); *Archæologia*, Vol. xxviii.

<sup>3</sup> See below, p. 45.

<sup>4</sup> See the original and enrolled or declared Exchequer Accounts from the 13th to the 17th centuries.

<sup>5</sup> e.g. in the Ordnance, Mint, Works, &c.

<sup>6</sup> See the Declared Accounts of the Pells and Audit Office, *passim*.

<sup>7</sup> See below, p. 46.

divisions of the Lord Steward's or Lord Chamberlain's departments, including the branch offices of the Wardrobe and Jewel House, the Board of Green Cloth, and a network of subordinate departments ; the Admiralty and the Ordnance offices (including the Armoury), the Custom House, the Mint, the Works, and the combined establishments of the Secretaries of State and the Privy Council. It will be seen that the departments which were the first to be evolved from the mediaeval official system are those connected with the Household itself, with the collection of the revenues of the Crown, including the supervision of public works, and with the currency and the national defence, all of which had shown a tendency towards a distinct organization from a comparatively early date.

The establishment of the Mint dates from the 13th century. The remaining departments, which were evolved in a later period, were represented in the Tudor and early Stuart periods either by the personal agency of patentees and their deputies, farmers and special agents, or by some more or less independent branch of the Royal Household.

Others, again, such as those concerned with the management of the Crown lands and forests, the first-fruits and tenths and the royal treasure were still administered by special courts of law<sup>1</sup>, whilst all matters relating to local government, trade, agriculture, and the plantations were within the general jurisdiction of the Council<sup>2</sup>. One noticeable omission from the above list occurs in the case of the War Office which, before the era of a standing army and a commander-in-chief, was sufficiently represented by the Ordnance and Armoury, for the provision of military stores and by the periodical employment of special agents as paymasters, contractors, and treasurers-at-war<sup>3</sup>.

Between the Restoration and the Revolution important additions to the clerical establishment of the Crown were made by the appointment of a Secretary at War and a Paymaster General of the Forces ; by the expansion of another device of the civil war time, the Excise, and by the permanent establishment of the Board of Trade and Plantations and the General Post Office. At the same time some progress was made in the direction of the organization of minor

<sup>1</sup> The Court of General Surveyors and the Treasury (including the Audit Office), which still had its headquarters at the Exchequer, of which the "First Fruits and Tenths" continued to form a department until the reign of Queen Anne.

<sup>2</sup> In the case of trade the Council seems to have made use of the advice and assistance of private experts, especially in the middle of the 17th century, and this will account for the preservation of contemporary records in the archives of the Royal Society and elsewhere.

<sup>3</sup> Cf. Pipe and Audit Office Declared Accounts, *passim*.



departments, such as the Office of Woods and Forests<sup>1</sup>, whilst the Treasury itself, together with the Inland Revenue, were in the process of development<sup>2</sup>. Few of these early departments, however, are represented by anything approaching to a continuous series of Records in official custody. In some cases, as in those of the Excise and the Mint, the departmental Archives appear never to have been transferred to a general repository<sup>3</sup>. In other cases the bulk of the existing Records has been destroyed by fire, such as that by which the Customs Records were decimated in 1814. Presumably the surviving papers of the Admiralty and War Office for this period are in private custody, whilst fragments of the correspondence of the old Boards of Trade previous to 1696 are to be found amongst the Domestic State Papers. By far the most complete of the official Records are those of the Ordnance Office, the Navy Board and the Treasury. After the Revolution, with an organized Civil List and under the growing system of departmental Boards, a better state of things is found to exist.

The great series of Admiralty Records, including numerous branch offices, dates practically from 1689. Other Government Boards which are continuously represented from the same period are the Treasury and the Board of Trade and Plantations<sup>4</sup>. A special feature of the period is seen in the great development of the Inland Revenue as a source of taxation, and new offices appear in the case of Greenwich Hospital and Queen Anne's Bounty. The regular series of War Office Records is unfortunately imperfect before the reign of George III, but a certain number of Precedents and Letter-books exist from the reign of Charles II, and special volumes of military Despatches and Commissions are preserved amongst the Domestic and Foreign State Papers from the reign of Queen Anne.

From the accession of the House of Hanover to the official

<sup>1</sup> For the history of this office see Thomas, *History of Public Departments*, p. 107. There was an establishment of four surveyors in 1663.

<sup>2</sup> The Records of the Tax Department created by the 4 Will. and Mary c. 1 are chiefly represented on the Exchequer side (Land and Assessed Taxes K.R. & L.T.R.). For the business of the Treasury at this date see *Calendars of the Treasury Books*, Prefaces by W. A. Shaw, *passim*.

<sup>3</sup> Certain Inland Revenue Records appear to have been utilized by Mr Dowell in his *History of Taxation*, but only those of the Estate Duty Office seem to have been transferred to the Public Record Office. Those formerly preserved in the City branches are stated to have been destroyed as useless, but a certain number from the old offices in Somerset Place appear to have been incorporated with the *Miscellanea* of the Treasury. (Cf. *D.K. 13th Report*, p. 5, and *14th Report*, p. 8.) As to the records of the Mint cf. *D.K. 33rd Report*, p. xi, and *35th Report*, p. xvii.

<sup>4</sup> The Board of Trade and Plantations was reconstituted in 1695.

reformation consequent on Burke's Act in 1782, few new departments were erected, though the existing establishments were greatly expanded, owing especially to the naval and military activity of the time. The Records taken over by the later National Debt Office were largely compiled during this period which also witnessed the important operations of various trading Companies and Commissions whose Records were destined to fall into the hands of the Crown. But the chief event in the contemporary history of the departments is undoubtedly the creation of a third Secretaryship of State for the administration of the Colonies in 1768. The period of resolute ministerial government which succeeded the constitutional agitation of 1782 and lasted until the era of decadence which preceded the Reform Bill in 1832 was responsible for important changes in the public departments. The loss of the American Colonies was followed by the abolition of the Board of Trade and Plantations, together with the new Colonial Secretaryship. The Records of the former department are now merged in the Archives of the later Colonial Office, by virtue seemingly of an order made in 1842, whereby all the Records of the old Board of Trade, previous to 1782, were transferred to the State Paper Office, an order which was only partially carried out<sup>1</sup>. From one point of view, however, the Board remodelled in 1784, from which date a new series of Trade Papers begins, is the lineal successor of the old Commission.

Closely related to this department, and in one aspect to the Ordnance Survey, is the old Board of Agriculture, whose records unfortunately have not descended to its modern successor. Another important modification of departmental jurisdiction has resulted in the modern aspect of the old office of the principal Secretary of State, the earlier distribution of business between the Northern and Southern Departments being superseded by the new division between Home and Foreign affairs<sup>2</sup>. Nevertheless, for some time to come, the Home Office retained the prestige of the old Secretaryship through its general control of military and even Colonial matters, in addition to its supervision of all matters that concerned the lives and liberties of the subjects and the dignity of the Crown. To some extent also this

<sup>1</sup> Originally the business of Trade and Plantations was distinct, but the two departments were thrown together after the Restoration, though a distinction continued to be made between Colonial affairs and domestic and foreign trade to the end. For some years after the reforms of 1782 Colonial affairs were managed by an "Office for Plantations" in the Home Department.

<sup>2</sup> Cf. Sir Ed. Hertslet, *The Old F. O.*, Appx., and Sir W. Anson, *Constitutional History* (ed. 1907), Vol. II. Part i. (1907), and below, Appx. III.

department might be regarded as rightfully possessed of the entire series of State Papers prior to 1782, but this is an academic question which need not be discussed here. However, it is material to note, in connexion with the Records of the period, that the War Office continued to be attached to this department till the year 1794, when a new Secretaryship for War (dealing with the regular army only), was created, being continued as a joint department with the Colonies from 1801 to 1854<sup>1</sup>. The reorganization of some other departments, including the Offices of Works, Woods and Forests, and the Mint during the same period does not affect the custody of their existing Records<sup>2</sup>, but since 1816 the Commissariat was left in a doubtful position towards the War Office and the Treasury respectively. Certain semi-isolated Offices like the principal Revenue departments<sup>3</sup>, the Victualling Office, and the important fraternity of Auditors, Comptrollers and Imprest officers can be conveniently relegated to the central departments of modern times<sup>4</sup>.

The new offices erected towards the close of the 18th century and in the early part of the 19th were to some extent of a similar nature, the Emigration Board and Alien Office Records having been absorbed by the Colonial and Home Offices respectively and those of the Board of Control being subsidiary to the main collection in the India Office. The National Debt and Stationery Offices have, however, continued to exist as separate establishments, though no Records from the latter have come to hand.

The sweeping reforms effected in 1832 brought several interesting series of Departmental Records to an abrupt close. Amongst these were the Correspondence and Accounts of the Navy Board and its

<sup>1</sup> The military business assigned to the new War Department in 1794 was sharply distinguished from the control of the auxiliary military forces which was exclusively exercised by the Home Department down to the year 1854. On the other hand the management of Colonial affairs was relinquished by the latter department in 1801 in favour of the combined War and Colonial Department. From 1816 this department confined its attention more especially to Colonial affairs, its official supervision of the War Office being continued only till the office of Secretary-at-War was merged in that of a new Secretary of State for War.

<sup>2</sup> The Offices of Woods and Works were amalgamated between 1832 and 1851 under a single Board of Commissioners. For the history of the Mint see the well-known Report of the Commission of 1848.

<sup>3</sup> *e.g.* the Tax Office, Stamp Office, Hawkers' and Pedlars' Office, Hackney Coach Office and Salt Office. There were three Boards for Excise, Stamps and Taxes respectively.

<sup>4</sup> *i.e.* the Exchequer and Audit Office, which unites since 1867 the old functions of the Comptroller General of the Exchequer and the Auditor General, who in turn replaced the several Commissions for the Audit of the Public Revenue and Expenditure, including the Commissioners for Auditing Public Accounts, Auditors of Colonial Accounts, Auditors and Comptrollers of Army Accounts, &c.

subordinate departments, which were transferred to the department of the Accountant General of the Navy as a branch of the Admiralty Office<sup>1</sup>. Some twenty years later the Ancient Board of Ordnance shared the same fate, whilst a number of smaller offices, hitherto semi-detached and semi-independent, were gradually merged in the central organization of naval and military administration. At the same time the remodelled departments of the Paymaster General<sup>2</sup> and Auditor General<sup>3</sup> absorbed other isolated branches of the Ancient Exchequer of Receipt and Account, though for some not very obvious reason the nominal duties of the King's Remembrancer and of the Comptroller of the Receipt of the Exchequer were continued down to modern times<sup>4</sup>. Again the Office of Works, as we have seen, was temporarily united with that of Woods and Forests in 1832 and the various branches of the Inland Revenue were finally amalgamated, whilst the nearly related business of Probate and Registration was brought into close proximity to the Revenue departments at Somerset House.

On the other hand the Commissariat department was separated in 1853 from the Treasury, by which it had been administered since 1816, but the Records of the Commissariat and Treasury Chest were continued till 1876. It is interesting to notice that the Commissariat as an independent department, from 1790 to 1816, occupied the same auxiliary position towards the military service of the country as was held by the old Victualling Office in connexion with the Navy.

A large number of new departments have been added during the last half century to the old establishments of the Civil List and the public service.

Two of the most noticeable additions, however, the two Secretaryships for India and War had existed for a long time previously in other forms<sup>5</sup>. The same observation, indeed, applies to other departments which were formally erected in this period. The scheme sanctioned in 1838 for a Public Record Office, with which the State

<sup>1</sup> Five new departments were created at this date, Accountant General, Surveyor General, Storekeeper General, Comptrolling of Victualling and Physician General.

<sup>2</sup> The Paymaster General's Office was reformed in 1782 and remodelled in 1836 to consolidate the several departments of the Paymaster General of the Forces, the Treasurer of Chelsea Hospital, the Treasurer of the Navy, the Treasurer of the Ordnance and the Paymaster of the Civil Service.

<sup>3</sup> Cf. above, p. 48, n. 4.

<sup>4</sup> Cf. below, p. 117, n. 2. The Office of the Exchequer Seal was not abolished until 1849 and its Records were not transferred till 1904.

<sup>5</sup> The Board of Control and the Secretary at War.



Paper Office was incorporated in 1854<sup>1</sup>, merely consolidated the existing keeperships and repositories of the legal Records with which the Archives of the public departments were now conjoined<sup>2</sup>. From a general point of view the Public Record Office might be regarded as a department of the Courts of Law, but its true descent is from the Household, and moreover, as a public department, its Archives must be distinguished from the Records at large<sup>3</sup>.

Of the more recent departments whose establishments swell the pages of the modern official Calendars, it is enough to remark that with few exceptions they do not possess Archives which are likely to prove of any historical value, a circumstance which is presumably due to their purely administrative and political nature and to the fact that the chief information which their Records could convey has for the most part been printed by the Government press. It may indeed be accepted as a general principle that, just as the place of the State Papers is taken in the 18th century by the Records of the public departments, so the historical use of the latter is superseded in turn by the printed Blue Books. This is a consideration which may materially affect the eventual survival of the modern Departmental Records, and it is one which has in fact already led to the judicious clearance of an accumulation of superfluous documents and official forms. At the same time, owing partly to the conservative instincts of the race, and partly to the ceremonial requirements of international relations, there are certain exceptions to this rule. The most noticeable of these is found in the case of the diplomatic and Colonial correspondence, which has clearly shown no tendency to diminish either in volume or in importance during the last century, and which cannot for obvious reasons be neglected for historical reference. In addition to these it must be remembered that there are archives of the British Legations in the capitals of Europe which in a few cases only were transmitted to London before the close of the Napoleonic wars, whilst some are still outstanding.

With the exception of such isolated documents as were preserved

<sup>1</sup> The Signet Office, which like the State Paper Office itself had been for three centuries a sub-department of the Secretaries of State's Office, was abolished by the Act of the 14 and 15 Victoria c. 82. The Privy Seal Office, which enjoyed an independent existence as a department of State, was abolished by the same Act.

<sup>2</sup> Nothing can be said here on the subject of the several departmental "Paper-Rooms," which were chiefly responsible for the custody of Records previous to their transfer to the Public Record Office. Most of these departmental Registries or Libraries in fact still exist.

<sup>3</sup> These administrative Records include those of the State Paper Office dating back to the 16th century.

in company with the old State Papers, the Departmental Records now preserved in the Public Record Office were mainly transferred to that safe custody between the years 1846 and 1860. Since the latter date new additions have been made to this central collection from time to time, the details of which will be found in the periodical Reports of the Deputy Keeper. The very serious questions which will inevitably arise whenever a complete survey of these later sources shall be attempted cannot be mooted here. Such an enquiry would include the circumstances connected with their official custody and the causes of the irreparable losses which so many of the series have obviously sustained. Here again we should find a repetition of the flagrant abuses which have been unsparingly condemned in earlier official Reports dealing with the preservation of the legal Records and State Papers. Unfortunately no pains and penalties were incurred by the abstraction or wanton destruction of these later Records, nor was the mischief likely to be ended until the intention of the Public Records Acts had been fully realized. Several important private collections have, however, been recovered or deposited from time to time, and these are notified in the Deputy Keeper's Reports.

The chief conclusions at which we shall necessarily have arrived from the above rapid survey of the chief incidents connected with the evolution of the public departments and the custody of their Records may perhaps be stated as follows:

In the first place we have found that certain departments have now ceased to exist, and that their Records have been transferred to some other custody in which they may be identified with varying success.

Secondly, other departments appear to have been absorbed or reorganized by a natural process, their Records being in nearly every case transferred or retained without loss from that cause.

Again a third class of public departments has preserved its departmental position unchanged, with its Records intact, and these have been either transferred to the national Archives or retained in the possession of the department itself.

Finally it may be presumed that, with a few exceptions, no Departments constituted since 1858 are possessed of Archives in official custody which would prove indispensable to historical students<sup>1</sup>.

<sup>1</sup> For the convenience of certain of these departments a few documents of value, though of no historical importance, have been received at the Public Record Office for safe custody. These are noted in the Deputy Keeper's Reports.

A nearer view of the condition and prospects of the modern Archives of the State is forbidden by the well-known rule whereby certain State Papers of the past century are withdrawn from a critical examination. But events move rapidly in this direction. Less than a hundred years ago few even of the legal Records or of the more ancient State Papers could be inspected without a license or the payment of almost prohibitive fees, whilst the chief opportunity of inspecting Departmental Papers was by reading their context in the memoirs of some public official who had removed them from his own department<sup>1</sup>. Possibly before the close of another century the historical value of these contemporary documents will have ceased to exist; but before that time has come it is also possible that many gaps in the earlier and more essential series will have been filled.

<sup>1</sup> See *Memoirs of J. W. Croker* and *D. K. 20th Report*, p. xxi. But this is nothing to the void caused by the abstraction of official papers in the first quarter of the 19th century, some of which are offered for sale every day, whilst others are bestowed in family collections that are inaccessible to the student. Fortunately (as remarked above) the tendency is for these collections to be acquired by the British Museum. Thus the important State Papers and departmental Records formerly acquired by the founders of the great Stowe collection have been fortunately preserved to the nation, though not it is true in the custody contemplated by the Act of 1838 and the reiterated ordinances of earlier times.

## THE CLASSIFICATION OF ARCHIVES.

### (a) *Records.*

A CLASSIFICATION of our national Records has already been to some extent attempted by the able officials who have from time to time described their nature and extent. This official classification, however, has been necessarily confined to a technical and artificial arrangement of the contents of the old Record repositories, and a purely scientific or "diplomatic" reconstruction of these Archives has not yet attracted the attention of English antiquaries. We are still content to take the Records as we find them. Rolls and Registers, Charters, Writs and Warrants, Inquisitions and Returns, Accounts, and all the rest, are what they have been since they were first written. There is no room for abstruse theory in the closely printed pages of the encyclopaedic handbook which forms such an admirable Guide to the existing arrangement of the Public Records. The relationship of one class to another, the construction of the subsidiary documents from which the formal Record is derived, the position of the derived documents which may be grouped around these, and the history of the mere excrescences, no longer nourished by the parent stock and clogging its avenues of light and air, none of these considerations has entered into the philosophy of the ancient or modern archivist.

It might be objected with some force that such questions are neither very practical nor very urgent, and that there is no demand for a scientific classification of Archives. But it is not even suggested that the existing arrangement might be superseded with any real advantage. The student of history has certainly no cause for gratitude to those who rashly remove the landmarks of antiquity. If the old proprietary classification of the Records of the Courts of Law is an artificial one necessitating a multitude of cross-references it also has its uses. It will at least be found to have preserved a clue to the *provenance* of the several series, whilst it allows ancient references



to be preserved intact. Neither of these advantages can perhaps be claimed for the system of specialization which has already made considerable inroads on the departmental collections of the Courts of Justice. On the other hand this system certainly facilitates the production of detailed lists forming a series of scholarly monographs which are duly appreciated by the public. Moreover of late years there has been a tendency towards grouping the main divisions of Records under their characteristic subjects. Thus the Plea Rolls of the Courts of Law have been distinguished by the title of "Judicial Proceedings," whilst for composite groups such convenient catch-words have been devised as "Ecclesiastical Matters," "Monastic Foundations," "Feudal Tenures," "Escheats and Forfeitures," "Army, Navy and Ordnance," "Parliamentary Proceedings," "Forests," &c. Such a system of recognized passwords for the chief sources of our institutional history may in the near future enable us to scrutinize the contents of the darkest recesses of the repository by a reflected light. The old press references will remain, but they need not possess any greater significance than the titles of the Roman emperors with which a famous antiquary embellished his stolen volumes. Eventually there are certain problems to be solved in connexion with the intricate system of Record composition that will require nothing less than a complete structural classification of the ancient Records of the realm; the relationship of one class to another, and the part that each distinct species of Record is designed to play in the economy of the mediaeval *Scriptorium*. Such a reconstruction, however, will be regarded as a purely Utopian scheme, and the utmost that may be attempted here is an innocent re-grouping of the several classes of Records in the interests of diplomatic study.

Let us begin with the essential Records, the "Protokollrolle" or final acts of the Courts of Record themselves. These can be distinguished at a glance when they are produced to us, and we know that they lie in their thousands on the shelves of the Repository, an unequalled series of term-rolls of the Courts of Law, extending from the reign of Richard I to that of Queen Victoria.

These form the most important portion of the "Judicial Proceedings" above referred to, and for the purpose of convenient subdivision they may still be allowed to remain under their respective Courts. Here are the "Plea Rolls," distinguished by the several titles of "Curia Regis," "Coram Rege," "Crown," "Controlment," and "Assize," which last includes of course the ordinary business of the Eyres, "Oyer and

Terminer," "Gaol Delivery" and "Nisi Prius," together with the extraordinary business connected with "Quo warranto," "Trailbaston," "Ragman," "Labourers," or Special Commissions, such as that which investigated the judicial scandals of 1289<sup>1</sup> and the State trials contained in the so-called *Baga de Secretis*. These are for the king's Courts alone<sup>2</sup>. For the Common Pleas we have the "De Banco" Rolls and their sequel in the "Plea" and "Recovery" Rolls of a later period, and there are also those abnormal Records the Fines. The Exchequer Court furnishes a closely allied series of Plea Rolls, whilst its Memoranda Rolls (if we must exclude Pipe Rolls) are possibly the most ancient of all judicial Records<sup>3</sup>. In later times its equitable jurisdiction has produced a long series of Decrees and Orders<sup>4</sup>. Then there is the Chancery with its slow judicial development<sup>5</sup> and its eventual encroachments, affording, instead of Rolls, a few early Proceedings and a mass of later Decrees<sup>6</sup>. All these are familiar types; but the list is not yet complete. For the purpose of a logical classification we must certainly include the Plea Rolls of the "Judaism" and of the Forests, together with the formal proceedings of the Palace Courts, and the pleadings within palatine jurisdictions. Possibly too we ought to include the *Placita Parliamentaria*, although the departmental connexion of these pleadings is with the Chancery, whilst the Acts or Sentences of the Admiralty and Ecclesiastical Courts are still further removed owing to their alien characteristics. In any case, however, they should be enumerated in a diplomatic collection of the final instruments of a judicial system.

So far we have, on the whole, been able to keep our classification within the beaten track; but the remaining "Records," as they are commonly regarded, those other "judicial proceedings," the Indictments, Bails, Essoins, Affidavits, Interrogatories, Bills, Answers and the rest, together with the Writs and Returns, Petitions and other documents of a diplomatic construction, besides the great army of Accounts; all these, which we have declined to place "cheek by jowl"

<sup>1</sup> See below, p. 144 sq.

<sup>2</sup> Some of the above, such as the proceedings under the Statute of Labourers, are really Rolls of the Justices of the Peace.

<sup>3</sup> See Part II.

<sup>4</sup> The departmental Courts of Augmentations, General Surveyors and First Fruits and Tenths and the cognate jurisdiction of the Court of Wards and Liveries are included under the Exchequer in the modern classification of the Records.

<sup>5</sup> From the "Common Law" practice recorded in the "County *Placita*."

<sup>6</sup> The special jurisdictions of the Courts of Star Chamber and Requests are closely allied to that of the Chancery. The surviving Records are however chiefly subsidiary proceedings.

with the completed Record, remain to be disposed of. These, as we have premised, must be regarded as "subsidiary judicial proceedings," leading through successive stages and by divers processes to the consummation of the Record.

An exception should perhaps be made in the case of the Accounts which are subsidiary to the compilation of the Great Roll and which also furnish the chief subject matter for the legitimate business of the Exchequer Court. The whole of this class however, though it is easily recognized by its general characteristics, presents many difficulties owing to our present imperfect knowledge of the minute details of the judicial and administrative systems of an earlier period<sup>1</sup>. For several reasons these Accounts may be included in the following class of Ministerial Proceedings.

The class of Records referred to above may be distinguished broadly from the remaining Archives by their judicial environment, but it must be remembered that amongst these judicial Records there are certain types which present a purely diplomatic construction although these instruments were nevertheless employed solely in a judicial connexion. A well-known instance occurs in the case of the Final Concords, whilst the Coroners' Rolls are returns to inquisitions in diplomatic form. Finally there are the innumerable Writs and other diplomatic instruments which constitute a large portion of the recognized judicial proceedings of the Courts.

These forms, however, are truly represented in the next section of our classification, which will include the originals or enrolments of diplomatic documents, including a large number of Inquisitions and Returns. The relationship in which these diplomatic documents stand towards the true judicial Records and their satellites is not easily explained. From one point of view few if any of them should be included amongst "Records" at all, for they are for the most part the products of the Chancery and Exchequer in their secretarial or ministerial capacities and include the well-known mediaeval "State

<sup>1</sup> In theory, at least, every branch and item of the Revenue was returnable in the Treasurer's budget, and each was authenticated by "Particulars of Account," a large proportion of which has survived to form one of the most extensive classes of our Public Records. These are the vouchers not only for the sheriff's farm, but also for the accounts of individual debtors, returnable through one or the other as accountants. In course of time the main sources of the Revenue ceased to flow through this main channel and were intercepted by "Foreign" enrolments and later still by "Declared Accounts," prepared and examined by new fiscal departments. These later enrolments, however, were based in turn upon "particulars" and "ledger-books" which have been more or less capriciously preserved. From this one source then we have a vast mass of disconnected documents, the accounts of sheriffs, bailiffs, clerks, ministers and receivers, customers, collectors and escheators.

Papers," of which some are still preserved amongst the modern series which bears that title. And yet the originals of these diplomata were received, preserved and occasionally enrolled by the Courts themselves which by degrees reproduced their formulas in the composition of their own Records. In fact for certain purposes the apparatus of the Chancery was not more efficient than that of the Exchequer or the Courts of Common Law. From the reign of Henry II (if not earlier) the King's Court and the Exchequer possessed distinctive seals, and several of the great inquests of the 12th and 13th centuries were apparently carried out through the sole agency of the latter jurisdiction<sup>1</sup>. In the case of other Inquisitions the Chancery certainly exercised a sole or at least a dual control, and by degrees, especially with the decay of the feudal system, the activity and political importance of the king's clerks superseded the functions of the Barons in this direction. The "Petty Bag" becomes a permanent institution, like the "Hamper," and the Exchequer confines itself to "special commissions" and obsolete inquests. But although the natural community of mediaeval clerical labour will easily account for the occasional interchange of Records between the two courts, the Chancery in its secretarial capacity has an absolute control over the composition and preservation of the domestic and foreign State Papers. Of these the originals and drafts, where they have been preserved, form the great class of Diplomatic Documents, whilst the copies alone constitute a considerable proportion of the Chancery Enrolments.

It is as we have seen a matter of some difficulty to draw a sharp distinction in any scheme of classification between the diplomatic forms of certain legal Records such as Fines and Recognizances and the Inquisitions and Returns which present like forms without any judicial connexion. This difficulty may, however, be to some extent obviated by the reflection that Pleadings and Returns alike have a common diplomatic origin as the products of a royal writ, which is here merely distinguished according to its judicial or administrative nature<sup>2</sup>. Moreover the proprietary claims of the Courts in respect of many important examples of ministerial proceedings are very ill-defined, and here as in other cases documents have been assigned to particular jurisdictions from the confusion attending their early custody.

<sup>1</sup> *e.g.* the feudal inquests preserved in the Red and Black Books of the Exchequer and the *Testa de Nevill*.

<sup>2</sup> See below, Part II.



Less difficulty may be felt in disposing of the group of Records now under consideration since royal charters and writs, with their Returns, and Royal Letters, with divers ordinances and notarial instruments, may clearly be classed together in accordance with their structural and technical characteristics. Indeed as we have seen it might be fairly questioned whether their mere environment should suffice to distinguish many of these reputed Records from the State Papers and Departmental Records of a later period, for after the lapse of a few centuries the latter in turn may appear as archaic as the Patent and Close Rolls of the 13th century.

Purely diplomatic forms are also represented by a third class of documents, which must not be placed on the same footing with judicial Records or even with diplomatic documents on account of the informality of their execution and preservation, although in many cases they will not be found to differ from either of the above in their form and purpose. These are the well-known Precedent Books, or "Books of Remembrance," semi-official compilations which have preserved valuable and authoritative, in some cases unique copies or notes of judicial and political proceedings. Although for the most part compiled in the shape of books, some rolls are found in this class which is chiefly represented amongst the Records of the Exchequer and the Chancery. Doubtless many cause-books and precedents were in daily use in the courts of law, but it is scarcely surprising that so few of these have been preserved in official custody, though numerous examples have survived in private collections.

Amongst these Precedent Books we may perhaps distinguish between works which are practically transcripts of official Records, such as Domesday Book itself, the *Testa de Nevill*, Kirby's Quest and other well-known Feodaries and Surveys, the *Vetus Codex* for proceedings of the Parliament, or mere transcripts of Statutes, and compilations of a wider scope and utility which in many cases were the work of more than one generation of clerks. Familiar instances will be recalled by the titles of the Red and Black Books of the Exchequer and the *Libri Munimentorum*, whilst of one sort and another some hundreds of these Precedents are to be found amongst the Miscellaneous Books, Rolls and Documents of the several courts.

Below these in historical, but not in official merit, are the commonplace books in official use, including Formulas, Calendars, Inventories, Establishments, Treatises and other office properties, which have been compiled and continuously preserved in the repositories of Records. Some of these are of great antiquity and considerable interest.

Bishop Stapeldon's famous Calendar and the other contents of the *Liber Memorandorum* together with the repertories of early judicial proceedings have a value apart from age, whilst the "remains" of Agarde, Ayloffe, Palmer and other official antiquaries are still in current use. But by no means all the existing specimens of this class are now preserved in official custody.

The fourth and last division of Records in this scheme of classification will include a considerable number of documents which though in many cases of diplomatic construction are not in their origin official Records, for the very reason that they have been mainly composed by private hands, and have been acquired from external sources. Such are the original charters, writs, and cartularies; the court rolls, surveys and other title-deeds which have been deposited or "exhibited" chiefly in the course of Chancery suits and proceedings in the Exchequer, or which have come into the hands of the Crown in consequence of the death or delinquency of their original possessors. These deposits had begun to accumulate in the royal treasury as early as the reign of Henry II<sup>1</sup> and to them was added later a vast mass of correspondence, accounts and family papers. Some of these documents such as "court-rolls," "ministers' accounts," Surveys and Registers have already been incorporated with the corresponding series of official Records, and if this process of absorption were continued the artificial distinction of the whole class would soon be at an end.

In summing up the results of this outline of a structural classification of our Public Records, it will be evident that the key to the position is the restriction of the term "Record" to the class of judicial proceedings to which it lawfully pertains. This simple limitation not only enables us at once to disentangle the true Record from the confused mass of state documents with which it has been casually associated in the existing proprietary classification, but also to resolve these latter documents into certain natural divisions which have not hitherto been recognized. At the same time it suggests a useful distinction between the final Record and its subsidiary documents. Again it will be noticed that the immediate effect of this natural arrangement is to bring into prominence not only the individuality but also the continuity of the composition and preservation displayed by the several types. The continuity of official writings is in fact a vindication of their morphological classification, for, with certain inevitable modifications, the forms of Records are continuous

<sup>1</sup> *Dialogus*, i. xiv.

from first to last, and so, in their distinctive shape, are the diplomatic forms which have been preserved beside them. Finally it may be suggested that an important result of some such scheme of reconstruction would be to facilitate the use both of Records and diplomatic documents as historical sources, and this, it is almost needless to say, is the chief, if not the only purpose of the present essay.

(b) *State Papers.*

The classification of the State Papers might be fairly regarded as a much easier task than that which is imposed on us in the case of the legal Records. This supposition is perhaps correct; but at the same time if there is less scope for reconstruction in the former direction, we are unfortunately hampered by numerous early misconceptions which were probably the cause of the misplacing of several items of the existing collections of the State Papers.

At the outset we have to define the extent and scope of our materials. Which of these are State Papers and which are Records or Departmental Papers? There is scope for considerable confusion between these three classes of official MSS. That is to say we meet with a certain number of diplomatic instruments in the form of drafts or originals with the corresponding Entry Books, some of which, such as the Secretary of State's Warrant Books, bear it is true a close resemblance to the general character of the State Papers, though they must be regarded equally as a diplomatic source<sup>1</sup>.

Other forms of ancient Records will be found interspersed with the typical State Papers, and for the reign of Henry VIII free use has been made in the official Calendar of the contents of Record Sources which are not obviously connected with the office of the contemporary Secretaries of State. This practice may perhaps be explained by the transitional character of a period in which the existing State Papers undoubtedly present a somewhat miscellaneous appearance<sup>2</sup>. By degrees, however, and especially with the gradual

<sup>1</sup> As warrants for the issue of more formal instruments they are of little value, but as missives under the Sign Manual or by the delegated authority of the Secretary of State they have a new importance.

<sup>2</sup> This anomalous aspect is rendered still more striking by the arbitrary titles applied to individual documents by earlier writers. Thus we should have some difficulty in identifying "Chancellor Goodrick's Leger" referred to by Strype (*Eccles. Mem.* II. (2) 223) with S.P. Dom. Edward VI, vol. XIX. but for the possibility of identifying the entries by means of the Patent Rolls and Particulars for Grants.

recognition of the departmental position of the Law Officers of the Crown the subsidiary Records of the Chancery and Bench are of less frequent occurrence, and with the differentiation of the Council Chamber and Signet Office their absorption is completed.

The use which may be found for these delated Records by the student of history will be considered elsewhere; but with regard to the present question of their classification it would be futile to deny them a position which should have belonged to the purely ministerial Records of an earlier period. In fact the constitutional pretensions of the sovereign and his Secretaries of State would have covered a far more extended use and custody of what were termed, with greater accuracy than our own, the "Records and Papers of State," and moreover both the Chancery and Exchequer had long abandoned their departmental activity. When we find the Secretary of State under George III issuing his warrant for the preservation, amongst the Papers of State of a quantity of Exchequer Records we need not be surprised at any incongruity which may exist in the procedure of their early custody<sup>1</sup>.

At the same time we are not compelled to recognize this archaic procedure in any scientific scheme of classification. The "Signed Bills" at least cannot be regarded as State Papers, whatever view we may take of the position of the Signet Office, and the same remark applies still more forcibly to the department of the Privy Seal. The instruments which properly belong to the later Secretariat are sufficiently numerous and important without confusing them with parallel forms.

The still larger admixture of the earliest Departmental Records with the purely Secretarial State Papers is due to circumstances which were perhaps inevitable. Here, at least, there was no pre-existing jurisdiction by which the custody of these Records could be claimed, and it was only by slow degrees that a departmental procedure was evolved to supplement the functions of the Wardrobe and Household or those of individual patent offices.

The reference is to the Papers relating to naval and military matters in particular, for the Records of the Treasury and Board of Trade were almost from the first under the charge of separate establishments, and we have seen that the same remark to some extent applies to the departments of the Council and the Household.

<sup>1</sup> The reference is to the well-known case of the Records of the Exchequer of Receipt appropriated by John Anstis. Cf. the list of incongruous Records transferred to the Paper Office in 1770 by order of the House of Lords, given in *D. K. 21st Report*, p. vi.



As for the Foreign and Colonial Papers which until quite recently have been regarded as purely Departmental Records these like the Archives of the Home Office itself formed an integral part of the State Papers down to the reign of George III. We may therefore regard certain Records which are included amongst the State Papers of the 16th and 17th centuries as merely antecedent to the respective departmental series. Conversely we must continue to regard as State Papers those other documents which must have been detached from the main collection in modern times to form the earliest portion of the series of Foreign, Colonial and Home Office Records<sup>1</sup>.

After these necessary explanations we shall be able to make rapid progress with the outline of our classification which, with certain modifications, will be found substantially the same in the earlier and later periods alike.

The principles of this classification may be briefly stated as follows: three main divisions of State Papers are easily recognizable, namely Domestic, Foreign and Colonial. These again may be subdivided according to a simple political, geographical or chronological arrangement combined with a distinction of subjects. Thus there are distinct headings for Ireland, Scotland and the Channel Islands, the English Political Papers and Entry Books being arranged in order of date under the several sovereigns' reigns, whilst the remaining Papers are arranged under subject headings.

These subject headings will be found to vary according to the contents of the collection at different dates and the taste of the age in which they are framed. Such headings as "Army" and "Navy," "Trade," "Church," "Law," "Petitions," "Proclamations," and "Warrants" are however found throughout, with the inevitable "Various" and "Miscellaneous" collections. The Foreign Papers with their Entry Books are naturally arranged under countries, with separate sections for Treaties and Treaty Papers, Royal Letters and miscellaneous subjects. The business of the Plantations, apart from Trade, was not distinguished till a later date and their official administration was shared by an independent department. The plan of their arrangement will however be found to be the same as in the case of the preceding series.

<sup>1</sup> As the several offices of the Secretaries of State resolved themselves into the existing departments between 1782 and 1801, the fact that their Papers continued to be preserved as a matter of convenience in the general repository of the State Paper Office (wherever situated) is of no real moment. Similarly the circumstance of the erection of new Secretaryships of State in a still later period does not give those departmental collections the character of State Papers.

Although the earliest existing classification of the State Papers dates from the reign of James I, there are certain indications that the main principles of the scheme propounded at that time by Sir Thomas Wilson were recognized at a much earlier date. In an original inventory of the Papers remaining in the Study at "Westminster<sup>1</sup>," penned, as we have seen, in the year 1544, we meet with many of the headings with which we are so familiar in the later period, and from these we can reconstruct the same conventional scheme without much difficulty<sup>2</sup>.

These titles were evidently in common use amongst the statesmen and antiquaries of the latter half of the century, and, divested of their prolix style and quaint Latinity, they have for the most part survived the vagaries of three centuries of official scholarship.

Some credit must certainly be given to Sir Thomas Wilson for his expansion of the existing outline of this classification. Few new features are indeed presented by his creation of twelve divisions of State Papers embellished with pedantic Latin titles. Of these the first two are assigned to England, north and south of Tweed, and the next seven to the European States including Ireland. The tenth division, however, deals with the Mahommedan States and two new classes are devoted to Treaties and Miscellaneous.

From the explanatory remarks appended to Wilson's list we obtain fresh details of the existing arrangement of the Domestic series of Papers comprised under the title of South Britain, and these with one or two exceptions can be identified with classes of Papers which are still preserved<sup>3</sup>.

The headings in question are those for Law, the Church, Army, Admiralty, Council, Trade and Miscellaneous. The chief subjects of another heading "the Crown" (*Regalia*) stand now under Warrants, Proclamations and Petitions, but some of the other contents of this subdivision have been dispersed. The heading "Criminal," though well represented in the most recent classification, was not consistently preserved throughout the 18th century<sup>4</sup>, while Trade and the Exchange

<sup>1</sup> Possibly meaning Whitehall. Cf. above, p. 31, n. 3.

<sup>2</sup> Two more meagre lists are preserved before Sir T. Wilson's Keepership, namely a list of "Books remaining at the Court" in 1598, and a note of the books in Sir T. Lake's custody at Whitehall, written between the years 1603 and 1605. Both show traces of a similar arrangement (*S. P. Docs.* I. 5 and 6).

<sup>3</sup> Below, Appendix v.

<sup>4</sup> It would seem that the Papers which Wilson and Williamson had in view under this heading were chiefly connected with State Trials. A well-known instance occurs in the case of the "Gunpowder Plot Papers."

are not distinguished during the same period because independent official establishments existed in both cases. All these headings are, however, represented in our own chronological series of Letters and Papers.

Perhaps the weak point in Wilson's classification is found in its general subordination to the official traditions of the period. We are told in fact that all but the last of the above divisions refer to the modern or Cecil collection and that the last or miscellaneous division comprised the old State Papers derived from preceding Secretaries of State<sup>1</sup>. This curious proprietary view of the State Archives will be found to underlie the whole scheme of their arrangement during the greater part of the 17th century.

The next attempt at a comprehensive classification of the State Papers is that prepared by Sir Joseph Williamson about the year 1682<sup>2</sup>. This will be found to be substantially the same as the scheme propounded by Sir Thomas Wilson. Certain improvements are, however, visible, though the general plan is scarcely as effective as that of the first Keeper. Scotland and Ireland now stand next to England but are separated from the Channel Islands and Wales by the titles of the Foreign States and the principal sections of the Domestic Papers<sup>3</sup>. These last are practically the same as before, but there are new headings for the Household, Offices<sup>4</sup>, London, Usurpation (signifying the Commonwealth Committees), Commissions, Letters of Secretaries of State, and Royal Letters. The old Records of the Signet Office and Council Chamber form here a separate class. There is again a separate section for the prae-Elizabethan papers with the heading "*Anglia Vetera*."

According to Williamson's own assertion, each of these divisions was arranged in considerable detail under appropriate sub-headings and more or less in chronological order. On the other hand we have the apparently truthful and unprejudiced report of his successor which implies that great confusion was found to prevail in the general arrangement of the Papers at the time of Williamson's death, and it is certainly

<sup>1</sup> These would probably have included the Domestic and Political Papers referred to in the inventory of 1544, but we may suppose that the Foreign Papers of that date are included with the modern series. The period given for this series, 1522—1590, is not probably intended to include the collection of the elder Cecil, a large part of which must have descended to his son apart from the Papers seized by the Crown.

<sup>2</sup> See below, p. 133.

<sup>3</sup> This unintelligent order has been ignored in the outline given below.

<sup>4</sup> Apparently corresponding to the later official headings of "Public Offices" and "Departmental."

strange that the detailed arrangement to which Williamson refers should not have been set out in a catalogue of some kind. As it was, nearly a century passed before such a catalogue was completed<sup>1</sup> and in the meantime no further classification was attempted, though it is only fair to observe that the dispersal of the collection in 1706 would have made the task a difficult one.

The special facilities afforded to the commissioners appointed in 1763 for the purpose of methodizing the Records at length resulted in the preparation of a fairly detailed inventory of the State Papers, which was re-issued as an Appendix to a Report made in the year 1800<sup>2</sup>. This is in two distinct parts, following the existing location of the Papers themselves; Part I dealing with those preserved in the Paper Office in the Cock-pit, and Part II with those preserved in the adjoining department of the so-called "Transmitter." The former of these contained the old collection of State Papers preserved before 1706 in the gateway of Whitehall, and the latter all the Papers which had accrued since that date together with some of an earlier date subsequently transmitted or recovered. Thus the basis of the present classification was naturally enough an alphabetical one, with a chronological arrangement which would enable the respective contents of the two separate collections to be easily compared.

At the same time this general plan might, with great advantage and without great difficulty, have been modified in accordance with the ancient and natural division of the State Papers into a Domestic and a Foreign section. Moreover the descriptions of the individual sources appear to be singularly unintelligent.

These defects are especially noticeable in the case of the inventory of the old collection, in which a number of new headings make their appearance. The greater part of these, however, will be found to refer not to the actual State Papers but to the common-place books compiled and bequeathed by Sir Joseph Williamson. On the other hand the Papers deposited in the Transmitter's Office are classified here with greater precision, and these are divided into two distinct series of Foreign and Domestic, which were even preserved in different rooms. The Treaties are also distinguished from the Foreign Correspondence,

<sup>1</sup> John Tucker, who succeeded Williamson in 1702, stated that he had caused a catalogue to be undertaken, but if it was completed it does not appear to have survived. He has left several drafts for a classification of the contents of the Office which are merely expansions of the existing scheme, with a few fanciful suggestions such as the use of letters to represent the different headings.

<sup>2</sup> *Report of the Commissioners on the Public Records* (1800), p. 68 seq.



and there is a further heading for "Whitehall," which is purely local and artificial. The sub-divisions of the Domestic section are, to a large extent, based on those of the 17th century classification, but some new headings occur, and the bulk of the Colonial Papers, including those connected with the East India and South Sea Companies, seem to have been preserved in this department<sup>1</sup>.

In the 1837 Report we find still further improvements effected as the result of the official labours of three accomplished Keepers.

Several general descriptions of the contents of the Paper Offices during the 18th century have been recorded in the form of reports or plans<sup>2</sup>; but with the exception of a plan of the interior of the old office in the Whitehall gateway, drawn by John Tucker about the year 1705, these are of little value or interest. In fact the further we proceed, after leaving the original classification of the State Papers in the 17th century, the more unscientific and unmethodical appear the subsequent attempts in this direction until we reach the reconstructed official hand-lists of our own time. The modern official classification of the State Papers is based upon a List of the collection prepared at the office in St James' Park between the years 1848 and 1862. This List was printed as far as the year 1688, to which date the Papers were then open to inspection, and must be regarded as a great improvement on the inventories of the 17th and 18th centuries. Although the sub-divisions are grouped and arranged without the display of much intelligence, the natural divisions of Domestic and Foreign Papers are clearly indicated, whilst a third division has at last been made for the Plantation Papers with those relating to Trade<sup>3</sup>. With regard to the Domestic Papers, the political and chronological arrangement is still further developed, and two familiar headings appear for "Various" and "Miscellaneous" Papers, the latter containing the bulk of Sir Joseph Williamson's private collection.

The Foreign Letters and Papers with their respective Entry Books

<sup>1</sup> These headings probably refer to the correspondence of the Secretary of State's department only. The Archives of the East India Company were not annexed till 1857, and those of the South Sea Company were controlled by the Treasury.

<sup>2</sup> *S. P. Docs.* Vol. II.

<sup>3</sup> The Board of Trade papers were transferred to the State Paper Office in 1842 by order of the House of Lords, but this is no reason why they should be regarded as State Papers. The Records of the Board of Trade are arranged on a strictly departmental plan, characterised by the use of minutes on which all the proceedings of the commissioners are based, and herein they differ widely from State Papers. They are in fact analogous to the Records of the Navy and Ordnance Boards, the departmental nature of which has been fully recognized. The inclusion of the Navy Board Records in the Calendar of Domestic State Papers has now been discontinued for this reason.

are arranged under the countries to which they respectively relate and a class of "Various" is formed here also for miscellaneous documents and official compilations.

The contents of the Colonial series are only indicated by general headings since the Papers were in course of arrangement, and there is an apparent sub-division between the East and West Indies which was followed in the official Calendar.

The early State Papers transmitted from the ancient Treasury of the Receipt are wisely distinguished as Chapter House documents, but in many instances extraneous matters have been included in the general series. This in fact is the chief defect of the whole arrangement, the several series of State Papers proper being encumbered by the insertion in order of date of a large number of irrelevant MSS. and printed books, some of which may have been inclosures or *pièces justificatives*, though others are to be regarded as casual acquisitions. Soon after the transfer of the great State Paper Office collection to the Public Record Office in the year 1862, a general rearrangement seems to have taken place, which resulted in the preparation of three printed Lists between the years 1873 and 1883. These, however, were only issued for official circulation and for the use of students frequenting the repository, although a limited number of copies are in the possession of private scholars and learned institutions. Under these circumstances a detailed description of the Lists in question is undesirable owing to the difficulty of verification. An outline of the scheme of classification employed will be found in the official *Guide* and will be familiar to students who have consulted these Papers during the last thirty years. It will be seen from the outline referred to that the principle of this arrangement is a proprietary one, the Papers being here regarded as the earlier portion of the respective Records of the Home, Foreign and Colonial departments. These ancient State Papers are moreover included in a general alphabetical arrangement, and in many cases have been transferred to a subject-heading or departmental section.

The latest official classification of the State Papers is contained in a list published in 1894 and therefore accessible for the first time to historical students. In respect of convenient arrangement and precision this excellent production leaves little to be desired. Based upon the official List of 1873, its scope is necessarily limited to the Domestic State Papers prior to the year 1782, leaving the Foreign and Colonial Records with those of the Board of Trade, and others which were originally included in the State Paper collection to be

dealt with as departmental Archives. In addition to its lucidity and accuracy, this final list of the State Papers possesses the further advantage of ignoring most of the useless and irrelevant deposits with which the earlier schemes of classification were encumbered, these being now relegated to classes known as "Domestic Miscellaneous" and "Miscellaneous State Papers."

Having thus traced the evolution of the existing official classification of the "State Papers Domestic" from the earliest times, it only remains for us to consider the basis of a theoretical classification of the several sources which at one time or another have been and to some extent are still regarded and referred to as "State Papers."

Such a classification must clearly embrace the whole series of Papers of State in official custody between certain dates. The dates can, however, only be ascertained in virtue of a general agreement which would probably recognize the period between the beginning of the reign of Henry VIII and the year 1782 as a practicable division between the era of ministerial Records on the one side and the departmental jurisdiction of the Secretaries of State on the other.

It will be necessary also to distinguish broadly between the several classes of Papers and to indicate the several sub-divisions in each class according to their subject-matter. It might also be desirable to reject certain extraneous materials and to include others which must be sought for elsewhere, but this is not a matter that can be regarded as within the scope of the present essay. If we were agreed as to the principles of such a classification, the execution of its details would be comparatively easy. It can scarcely be doubted that its main divisions should be those hitherto adopted, namely Domestic and Foreign State Papers with the addition of a third title for the Colonial Papers which had already become excrescences in the Domestic series before the creation of a new Secretariat in 1768. This arrangement, moreover, would not encroach upon the departmental jurisdictions of the modern offices of state, the constitutional origin of which cannot be placed earlier than 1782.

It is true that the Home Office, as the virtual representative of the peculiar constitutional functions of the dual Secretariat of an earlier time, might conceivably claim a continuous procedure and nomenclature in respect of its Records. This position is, indeed, indicated by the fact that the Royal Warrant has continued to be issued by the authority of the Home Secretary whose department is still the proper depository of all Petitions and Addresses to the Crown. It is clear, however, that no proprietary title can be based

upon a survivorship which has not been recognized in respect of the official custody of the Foreign and Colonial Records.

It may therefore be fairly assumed that the State Papers at large, previous to the year 1782, form practically a common source which may be utilised according to the requirements of historical study. Having indicated the above divisions on this assumption, the subdivision must chiefly follow a chronological sequence. Thus the inclusion of Scotland prior to 1603 amongst the State Papers Foreign is just as correct as the recognized position of Hanover in the Domestic series; but we should perhaps hesitate to place the correspondence of Corsica in the latter category, though the island was for a time formally annexed to the English Crown. In any case the matter is of no moment since the State Papers relating to Corsica were long ago abstracted and now probably repose in some family collection. The instance is only given as an illustration of a reasonable procedure to be adopted in like cases.

The classes of Domestic State Papers officially described as State Papers and "Addenda" contain the large collection of private or semi-official MSS. which has been brought to light in recent years<sup>1</sup>. These have been distinguished from the "Domestic Miscellaneous," a division which is largely composed of the common-place books of Sir Joseph Williamson.

To some extent the "Miscellaneous" class of the Domestic, Foreign and Colonial State Papers serves to include the abnormal forms which cannot be classified with any recognized series. There are, however, certain series of State Papers in all three divisions which appear to have been arbitrarily included in the general collection, although from their nature they should have been originally placed either amongst the legal or with the departmental Records. Thus a large number of military and naval despatches are to be found amongst the Foreign and Colonial correspondence, leaving in many cases inconvenient gaps in the departmental collections of the War Office and Admiralty. These extraneous documents cannot of course be now excluded from any list of State Papers proper, but the existence and character of such a class may be usefully noted in a structural classification.

In addition to this casual inclusion of certain Papers, others have been removed, for some cause or other, from their true position and inserted in a class to which they do not properly belong and the

<sup>1</sup> Some of these, *e.g.* the Cely, Darrell, Stonor and Johnson Papers, have been partly printed or described in private publications.



existence of such delated MSS. may be indicated in the same manner. (Appendix V F.)

The remaining heads in this classification require no explanation beyond the remark that although only a fragmentary collection of Legation Archives previous to the 19th century exists in official custody, this class is well represented in the Departmental Records of a later period and must therefore be included here, especially as many similar collections for the earlier period exist in private custody.

(c) *Departmental Records.*

A satisfactory classification of any collection of official documents must depend to a large extent upon an adequate knowledge of their environment. That is to say we must clearly understand both for what purposes they were prepared and to what extent they have been preserved in official custody. In the case of the legal Records and State Papers we have to do with collections that have been mainly preserved in such custody whilst their contemporary relations have been exhaustively described. The position with regard to these "Departmental Records" is, however, a widely different one. They have in many cases been transferred to the general repository burdened with numerous excrescences in the shape of Commissions and other official agencies of which the objects and procedure are now somewhat obscure. To increase the confusion caused by this obscurity, some portion or other of the official collections of ministerial correspondence has usually failed to find its way into official custody. Again it must be remembered that, as in the case of the later legal Records, not all the contents of the departmental Archives are of any considerable historical interest. It is, moreover, well known that by no means the whole of the collections in official custody is available for the purpose of research. Indeed it would be found that although a large and rapidly increasing proportion of these Archives has been already placed on the same footing as the legal Records and the early State Papers, no description or details of the arrangement of certain series has yet been published. It will be evident therefore that our knowledge of the contents of such collections, derived from various summaries printed in the Deputy Keeper's Reports or from the inventories compiled by privileged students, will be inadequate for the purpose of a proprietary classification. At the same time, however, it may not be difficult to suggest the

main outlines of their internal arrangement on a structural plan. In fact, in some respects, these official documents exhibit a greater regularity and consistency in point of diplomatic construction than the more important series of the State Papers. This circumstance is perhaps due to the formal constitution of the departmental Boards whose procedure was to some extent modelled upon that of the Courts of Law<sup>1</sup>. Thus we have as a characteristic feature of the departmental collections such well-defined types as Letters, Minutes and Warrants, together with a number of subsidiary and miscellaneous forms which are not altogether unfamiliar to the student of mediaeval Diplomatic.

On these lines, at any rate, we may attempt something like a comprehensive arrangement of the scattered types of Departmental Records. The main classification must necessarily be, as far as possible, a proprietary one, but the sub-divisions, at least, may follow a structural plan. Moreover this arrangement is to a considerable extent facilitated by the independent procedure of the several departments which can display a complete series of official Records from a very early date. Besides these regular and quasi-diplomatic forms there will nevertheless be found in nearly every department other Records of a very miscellaneous nature. These may be either of internal or external origin in their relations with the department in which they are now preserved. Some have been both compiled and kept in the same official custody throughout. Others have been merely deposited there by design or chance. These miscellaneous documents certainly remind us of the very similar types found in the corresponding class of the legal Records. In the latter case they have been arranged under the general subject-headings of "Precedents" and "Miscellaneous." In the present instance they might be more aptly described as "Books of Reference" and "Miscellaneous," that is to say compilations prepared for the conduct of the routine business of the department together with other compilations or original documents deposited or exhibited for official information or otherwise. The Miscellaneous documents here referred to will be easily identified by the mention of such familiar specimens as intercepted

<sup>1</sup> Although a regular sequence of Records may be looked for in the case of a public Board of any importance, it will be remembered that the later departments of the Secretaries of State for Home, Foreign and Colonial affairs continued to produce State Papers of a very similar character to the earlier series so styled. Besides these important exceptions, several of the modern departments have produced no Records of any historical value though they have preserved papers of great interest in the shape of deposits or returns to official enquiries. The Records of the Charity, Ecclesiastical, and Forfeited Estates Commissions are examples in point.

letters, prize papers and the lapsed collections of the old chartered companies or expired royal commissions.

The effect of a structural classification of these Departmental Records may be observed in another direction. The normal divisions indicated by the titles of the In-Letters, Minutes, Out-Letters or other proceedings are not always clearly defined. In one form or other they can, however, be distinguished in the great majority of cases. These titles then may be conveniently employed to indicate certain forms of documents which possess common characteristics in respect of their construction, whatever the nature of their subject-matter may be. On the other hand the great classes composed of "Books of Reference" and "Miscellaneous" can only be arranged according to the subject-matter of their contents.

In another direction a natural grouping of the chief departments according to the nature of their official business may be easily discerned. One such group will comprise the Secretaryships of State. Another, comprising the Treasury, Exchequer and Audit Office, Paymaster General's Office, Customs, Inland Revenue, National Debt Office, Mint, and Woods and Forests is concerned with the national finance. The Admiralty and War Office are responsible for the national defence, whilst the royal state is maintained by the departments of the Lord Chamberlain, Lord Steward and the Keeper of the Privy Purse. Modern departmental groups, constituted by royal commissions or evolved from ancient committees of the Privy Council, are charged with the care of the nation's interests in respect of trade and agriculture, local government, public works, education, and ecclesiastical or charitable endowments. That the nature of this official business should determine the form of certain Records of the individual departments is therefore not at all surprising. The large and important class of Books of Reference which forms one of the two remaining divisions of the Departmental Records is in fact largely composed of various familiar types, the form and subject-matter of which are sufficiently indicated by their titles<sup>1</sup>. To these, however, must be added many other Records the nature of which is by no means clearly expressed by this official nomenclature<sup>2</sup>. The fact that a considerable proportion of these official compilations can thus be assigned to their appropriate subjects, or even to their respective departments from their titles alone may certainly be utilised for the purpose of a structural classification. Thus one class of Depart-

<sup>1</sup> *e.g.* "Registers," "Journals," "Lists," "Returns," "Ledgers," &c.

<sup>2</sup> *e.g.* "Pay-Books," "Log-Books," "Muster-Rolls," "Bill-Books," "Cash-Books," "Estimates," "Establishments," "Debentures," and many others.

mental Records will refer to the Pay, Pensions, Salaries, &c. of persons employed by the State, and another to their Appointments or Services. The Revenue Records form a separate group, whilst near to these come the Inventories, Prices and Surveys connected with public works and stores. At the bottom of the scale we find a certain number of common-place books, together with a great mass of semi-official correspondence.

On the other hand, many of the miscellaneous Departmental Records, which are not official compilations at all, admit of no such presumptive method of classification. These, as we have seen, consist for the most part of Deposits or Exhibits relating to matters outside the routine work of the department<sup>1</sup>. As in the case of similar collections amongst the legal Records and State Papers these documents must constitute the most remote class of the Departmental Records. Moreover it must not be forgotten that the muniments of dissolved corporations, which form an important section of this class, are based upon the practice of the merchant's counting-house rather than upon the ancient procedure of the royal courts, and the correspondence preserved in the same quarter is chiefly of a private and familiar character.

From the above brief examination of the theory on which the student may proceed for the purpose of a scientific classification of the Departmental Records, it will be evident that, in spite of the survival of certain regular types and a notoriously conservative procedure, the existing contents of the departmental Archives are so over-laden with adventitious forms and confused wreckage that nothing like a comprehensive or detailed reconstruction can be attempted until the elucidation of the origin and devolution of these historical sources is accomplished. At present therefore the old proprietary classification, with its subject-headings, must suffice for the purpose of our studies.

Apart from this theoretical classification, further reference must be made to an artificial arrangement which has to some extent superseded the usual method of sub-division in the case of certain departmental collections. Here the whole contents of each collection are arranged under subject-headings in alphabetical order without any indication of their relative structural nature. This device which is characteristic of the more recent collections may perhaps be

<sup>1</sup> It is true that ships' "Logs" and naval or military "Muster-Rolls" are actually vouchers required in connexion with the payment of salaries or provision of stores, and their classification as "Books of Reference" is rather due to their official use than to their actual form. It must be remembered, however, that the logs of merchant vessels, though not preserved in official custody before the Act of 57—58 Vic. c. 60, have always enjoyed a prescriptive authority.



regarded as an attempt to dispense with the primary grouping of documents as Letters, Minutes and the rest in favour of a mere alphabetical order which might be more properly regarded, like the chronological order of the documents, as a purely subsidiary arrangement. That this system, which presents persons, places and subjects in common with the diplomatic descriptions of the documents, is wholly unintelligent, goes without saying. Unfortunately it is to a great extent inevitable owing to the existing lettering of the several series, which dates from a period when the Isle of Wight used to be indexed under I and the Duke of Wellington under D. In such cases, however, something can be done in the direction of a scientific classification by means of cross-references.

It is notorious that in every State a modern innovation bids fair to alter the general aspect of the Departmental Records of the future. Here instead of separate series of Letters, Letter-Books, Minutes, and so forth, the original or In-Letter, with all proceedings taken upon it, is preserved in the shape of a File of loose papers, classified under a serial number, and referred to by means of a Register. Herein we may observe an interesting return to the well-known practice of the mediaeval repositories as illustrated in the official "Kalendars" of the period, registration by a serial number being merely substituted for a cypher or pictorial design, and the more convenient file<sup>1</sup> for a hamper or deer-skin pouch.

The latest system of official classification, as indicated by the published "List of Admiralty Records," may be regarded as the antithesis of an alphabetical and structural classification alike. Here certain Records formerly compiled or preserved in an ancient department are officially ascribed to the modern representative of that department. Under this proprietary heading they are arranged in the following classes: In-Letters, Out-Letters, Minutes, Accounts, Registers and Miscellanea; every species of Record that is not assignable to one or other of the first four classes being relegated to one or other of the last two classes. The above arrangement naturally simplifies the difficult task of discovering the exact official position of many subsidiary classes of these Records, whilst it must greatly facilitate their production. From a historical and archaeological point of view, however, the new system of classification naturally possesses less interest for the student.

<sup>1</sup> The term "pouch" is curiously enough still retained in this connexion for the modern box in which departmental papers are filed (cf. *D. K.* 56th and following Reports *s.t.* "Transfers").

## THE ANALYSIS OF ARCHIVES.

### (a) *Records.*

IT is fortunately unnecessary in the present day to demonstrate the value of the legal Records as materials for the making of History. The fact is one that has been frequently enlarged upon and its importance is a commonplace to every modern student. Indeed it is not obvious from what other source the history of the latter part of the Middle Ages could be satisfactorily compiled. For the earlier period we have, in default of Records, the familiar chronicles and treatises of which the best examples actually embody the evidence of Records and State Papers which have long since perished. But with the systematic preservation of State Archives the mediaeval chronicler falls into the background, whilst from the middle of the 14th century his very art undergoes a rapid deterioration. Probably this great change in the nature of our historical evidence mattered little so long as the conception of History itself was confined to the patriotic legends and past politics which formed the staple of the historian's craft in the later Georgian and early Victorian periods. All this was changed when the value of Economic and Local History was clearly recognized, and especially when archaeology and kindred studies could give a learned distinction to historical science.

For the use to which these Records may be put is plain enough. They are contemporary legal and impartial evidence, and moreover they possess the charm of rarity and literary quaintness in addition to their unimpeachable authority. They fortify the text in the shape of footnotes and they will furnish forth a whole Appendix to clinch a weighty argument.

It is not surprising therefore that the national Archives should have become the favourite prospecting ground of the historical searcher. And in truth the repository of Records is a mine of information from which the whole body of workers may take their profit. Here the lawyer, the antiquary and the archaeologist can

labour side by side with the topographer, the genealogist, the biographer, the philologist, the economist and the palaeographer. Some one or other of the auxiliary branches of History will find employment also for the numismatist, the sigillographer, the statistician and the chronologist. The professed historian indeed is seldom to be found in the ante-rooms of Archives but his place is taken by the specialist in the details of the institutional history of the nation, its naval and military achievements, the making of its supremacy in trade and of its colonial empire, its social and religious and its local life and intellectual progress. These specialists, we are told, are the journeymen of history whose individual labour supplies the materials for the master's art, which knows both what to use and what to neglect in this great heap of matter, what is pure metal and what is dross, and how the gold shall be refined and assayed by the tests of criticism and then made current by the impress of his genius.

But there is one consideration that we must keep in view if we would work this mine to the best advantage. The source is practically inexhaustible, but it by no means follows that it will supply exhaustive materials for any given subject of historical enquiry<sup>1</sup>. There are some indeed for which it will prove wholly sterile, whilst, for many others, important materials will be found elsewhere. In the case of early Diplomatic Documents, as in that of later State Papers, the public Archives are, in fact, a secondary source. For the history of corporations and the biography of unofficial persons they would naturally be regarded as a source comparatively remote. Again a Record, even when the mere ability to read it is presumed, cannot be regarded, like a printed book, as a simple unit amongst the materials of history. Its evidence is seldom self-contained and may easily lead the student from one class of documents to another<sup>2</sup>. Moreover the subject itself cannot always be sharply distinguished and cross-references to cognate subjects must be allowed for. This, indeed, is no more than we are accustomed to find in a scientific bibliography; but there we are not hampered by a complex classification and terminology.

The morphology of books, which has such interest for the bibliophile, need not distract the attention of the student. To him

<sup>1</sup> Compilations like those by E. Edwards (*Synoptical Table*) and C. P. Cooper (*Account of the Public Records*) are now entirely superseded by the official *Guide*.

<sup>2</sup> Thus the great historian of the Exchequer was ignorant of the existence of the long series of Records of the Receipt which can now be dated back to the reign of Henry II, these being deposited in a department to which he had no facilities of access. Cf. Devon, *Issues of the Exchequer*, Vol. I, Preface.

it is all one if the printed text be in folio or duodecimo, 'Gothic letter' or 'roman letter,' so that the edition is the right one; but in the case of the Record the distinction between a volume and a bundle, a roll and a file, a membrane and a folio, may prove of real importance.

Some knowledge of these technicalities must therefore be regarded as indispensable, and to this must be added an acquaintance with the general principles which govern the official classification of Records.

This, perhaps, is not a task that will present many difficulties to an intelligent student, if he regards the subject, in both cases, from a scientific point of view. On the one hand we have the legal Records arranged under the four great courts of law and several minor tribunals; on the other the various subjects of historical interest with which we are concerned. Here are the Charters, Deeds, Writs, Patents, Confirmations, Exemplifications, Privy Seals, Warrants, Inquisitions and Returns, Surveys, Extents, Rentals and Accounts, the Pleadings, Judgments, Decrees and Sentences, the Bills and Answers, Interrogatories and Depositions, Indictments, Estreats, Bails and Essoins, the Memoranda, Precedents and Miscellanea of the several courts in the actual forms of Rolls, Registers, Books, Docquets, Volumes, Bundles, Files, Bags and Boxes; there are the names, dates, events, institutions, arts and crafts, manners and customs, health and wealth, religion and politics of the national history which may be verified or explained by the evidence of Records.

It may be suggested that, for the purpose of an exact survey of these extensive sources, a scientific definition and grouping of historical subjects should first be undertaken. Unfortunately in this country at least the study of Historical Method is still in its infancy and no recognized terminology or classification is available for this purpose. Nevertheless the main features of such an arrangement can be distinguished without much difficulty.

Under the heading of History proper, we should include the several departments of Political, Constitutional, Economic and Social, Ecclesiastical and Local History. Then come the "auxiliary studies" of History, including Geography, Law, Philology, Palaeography and Diplomatic, Biology and Archaeology.

To one or other of these main divisions every conceivable subject of legitimate historical enquiry may presumably be relegated. The arrangement indeed is purely artificial and its value is chiefly scientific, for most of the subjects of historical enquiry with which we are really concerned have a separate and an independent position in relation to the Archives. To a student of the national Taxation, for example,



this title forms a sufficient catch-word without the further consideration that the subject concerns, from a different aspect, each of the departments of History that have been indicated above. It might suffice, therefore, to consult the several sources for this subject without paying any regard to a detailed classification of the subject itself. Moreover these sources could doubtless be distinguished in the well-known official *Guide* which furnishes us with such suggestive headings as "Exchequer," "Revenue," "Subsidies," "Accounts," "Customs and Excise," and surveys the whole subject in an admirable article under this very heading of "Taxation."

This is sufficiently plain; but we should not overlook the fact that the student of the future must be, if he is not already, a specialist, whose chosen subject, though of limited extent, would demand the closest survey of all cognate sources. Such an examination would certainly be assisted by the existence of some recognized classification of historical subjects such as has been suggested above. For whereas the history of Taxation alone might be regarded as a purely constitutional question, it is one which concerns also in a special degree more than one of the other divisions of historical study. In each of these, which would include Economic, Ecclesiastical and Local History, valuable sources of information would occur in a particular connexion; whilst, even from the standpoint of the constitutional historian, many new subject-headings would be suggested for the purpose of supplementing those which we might reasonably expect to find in an official catalogue.

But something still remains to be done in another direction where as yet the historian is compelled to ask or feel his way through the vast labyrinth of the public Records. The preparation of a classified list of memoranda for a monograph or thesis is a task which he can probably accomplish best unaided, but to connect these subjects with their appropriate sources must put a heavy strain on his limited experience. The subjects of his choice are ready to hand, but the sources have yet to be ascertained, and to make an exhaustive scrutiny of the whole *corpus* some inductive method will be followed with advantage.

It is here that use might be found for a scientific classification of subjects and sources in the shape of reference-forms resembling the specimen printed in an Appendix. In these tables besides the columns used to denote the structural and historical classification of the subjects and sources respectively, others serve to indicate the printed references and parallel MSS. connected with the subject as

well as the reference to the official source and its diplomatic description. The form of such a table, however, could easily be modified to suit individual requirements, and indeed some such method is already extensively used by continental students. The specimen form given below was used by the present writer for the purpose of special research which has been effectually supplemented and developed by more competent workers<sup>1</sup>.

But there is still another method of investigation within reach of every student who is not solely concerned with a particular subject of historical investigation. It is not too much to say that an intelligent use of lists and indexes of Records forms the most effective method of present-day research. It may be that the energy and resourcefulness of individual workers is stimulated to a large extent by the difficulties under which they labour. A mere sprinkling of printed texts of very unequal merit, a considerable but unevenly distributed series of Calendars of recognized merit, a shelf of invaluable Indexes and another of equally indispensable Lists, with the usual medley of obsolete or temporary inventories that are to be found in the Archives of every country, completes the student's equipment. Besides these he is fortified with the *aes triplex* of the official *Guide*; but it can scarcely be said that he is armed *cap à pié* for his assault upon the Records.

For a long time past foreign experts have been accustomed to insist that a complete inventory of Archives, however summary, is essential for the successful pursuit of these investigations. This remote ideal has become an immediate *desideratum* and to this one pressing need all other considerations will everywhere be subordinated in our own time. Meanwhile much may be effected by individual enterprise. Already local historians and genealogists have begun to learn the lesson of self-help, and the official series of Record Indexes has been supplemented by many monographs, the value of which has received an official recognition. It is now the turn of the general historian to provide himself with some of those much-needed compilations which the industry of early scholars was unable to compass owing to the scattered state of the Archives of their own day.

<sup>1</sup> Appendix VII. This form was used for the purpose of investigating the subject in question in connexion with an edition of the *Red Book of the Exchequer* (Rolls Series, Vol. III. Preface, p. ccxv sq.), an investigation which led to the suggestion of an edition of the Plea Rolls relating to the trial of the Edwardian judges (1289—92) which has recently been produced by Professor Tout and Miss Hilda Johnstone (*R. Hist. Soc. Camden* (3rd Ser.) Vol. x.), to whom the present writer is indebted for permission to reproduce the results of their valuable researches.

We shall see<sup>1</sup> that the "Index" and "List" of Records must be carefully distinguished from the well-known "Calendar," whilst each type also fulfils a distinct purpose. The main object of the List is to afford a general indication of the nature, date and position of the scattered sources, and that of the Index is to furnish information respecting the contents of single collections, or to serve as a table of contents in the case of a single MS. which contains a number of diverse entries<sup>2</sup>. It will be apparent, therefore, that whilst the preparation of Lists or inventories of Archives is ostensibly the business of archivists, the compilation of Indexes, like the preparation of Calendars or the transcription of texts, is a matter which chiefly concerns the historical student.

It would be a mistake to suppose however that these adventitious aids will enable the most diligent or ingenious student to dispense with the assistance of the official *Guide* with its admirably precise and technical survey of the legal Records. A future generation may evolve a more ponderous hand-book, or its learned editor may even be enabled, by further reconstructions of the Archives, to improve upon its plan in future editions, but for the time being it stands absolutely alone in its importance.

The object of the present essay is merely to prepare the historical student to utilise the contents of this vast *thesaurus* for his own purposes; but in making his selection of a subject he might also incidentally contribute to the elucidation of individual sources. In more than one instance it would be possible to supplement our existing sources by the collection of related documents now scattered by the caprice of a former official custody amongst several distinct classes of Records. For example, students of Constitutional and Economic History alike would find their account in a complete table of the royal inquisitions which form notable land-marks in the history of the administrative and fiscal system of this country from the Conquest to the Commonwealth. A large proportion of these inquests have been published or described in several places, but much remains to be known concerning their origin and purpose, and the Records themselves are by no means easily accessible. Some are entered in famous registers and the originals are here and there preserved in their contemporary form or in that of an intermediate enrolment.

<sup>1</sup> Cf. below, p. 106.

<sup>2</sup> e.g. Precedent Books, such as the well-known "Books of Remembrance" and the "Miscellaneous Books" of the Chancery, Exchequer and Augmentation Office. Even in the mediaeval period such registers were frequently furnished with a table of contents.

Others again exist only in the shape of returns to original writs of several kinds. Many are to be found in the Miscellanea of the Exchequer and the remainder are distributed amongst the records of the Chancery and other courts.

Another profitable piece of reconstruction might be found in the case of the vast accumulations of "Exhibits" and "Deposits" which are now included in the proprietary arrangement of the legal Records. These documents which, as we have seen, properly form an independent class can scarcely be adequately appreciated until they have been thoroughly sifted by a diplomatic process.

The subject of the manorial economy would make still larger demands upon the student's industry; but it is one which stands in special need of illustration from Records, and the appropriate sources, which are frequently buried in some remote series, can only be distinguished by an investigator trained in this department of Economic History. Again, thanks to the provision of calendars and texts made by official authority at several dates, or by private enterprise, a complete table of existing Royal Charters might now be compiled by the cooperation of many willing hands under the direction of a few experts. Another much-needed list of Early State Trials should also take a chronological form. It would be difficult to over-estimate the value of such a list to the Political historian, who would thereby be enabled to ascertain the nature and extent of the proceedings of the various tribunals at a given date; for the political significance of these proceedings can scarcely be distinguished in an ordinary class list.

But it is not enough merely to identify and note these scattered evidences. It is also necessary to comprehend the relationship of the principal and subsidiary documents with their cognate sources if we would truly understand the workings of the whole system of our institutions. There is no more striking instance of our haphazard methods of research than the general disregard of the importance of these relations which prevails amongst highly intelligent workers in the field of Records. Except in a few familiar instances, such as the procedure in ecclesiastical elections and the issue of Letters Patent, the sequence of the several instruments in common use as historical sources is either not understood or else insufficiently appreciated. In the case of such historical documents as the Hundred Rolls and their satellites this neglect may have somewhat serious consequences<sup>1</sup>; but apart from isolated researches, it would be very desirable to

<sup>1</sup> Cf. Part II.



ascertain the relationship of any series of Records to which we may have occasion to refer. For this purpose no possible experiment could be more instructive than the reconstruction of the actual machinery of the central and local government of this country in a given year by the arrangement and publication, in full or in part, of the contemporary Records. The business and policy of the Court, as illustrated by the documents of the Chancery or Wardrobe, the procedure of the Judicature, the system of the Exchequer, the relations with the Church, and the conditions of the agricultural and industrial communities, could be more clearly realized from such an exposition than from numerous editions of progressive excerpts. It is possible, for example, to study the fiscal system of the mediaeval kingdom in many learned works illustrated by copious references to contemporary treatises and to Record texts without acquiring more than the most superficial knowledge of the subject. To obtain a fuller perception of the system employed during more than seven centuries, some such work of reconstruction would have to be attempted. Moreover the practice of official book-keeping has varied from one generation to another. There are of course many other points connected with the contents of the historical Records on which we could wish more light to be thrown. Some of these, however, concern the archivist rather than the student, and for the present we are dealing only with the elements of Record-searching as it may be practised by the laity. The time however may be near at hand when some immediate difficulties will have to be faced by students concerned with the study of institutional problems which still remain unsolved for lack not of ability or industry, but of that resourcefulness which is such a noticeable result of the training afforded by other countries.

(b) *State Papers.*

It will have been gathered from the preceding account of the custody and classification of the State Papers of this country that their position as a historical source is quite exceptional. The earlier series of official documents are perhaps still best known to us from a few worthless texts and imperfect Indexes published in the dark days of Record scholarship and from the admirable Lists and Calendars prepared under a new *régime*. The post-mediaeval series of the legal Records, together with the modern series of Departmental Records, are however almost wholly destitute of any detailed Lists or Calendars that can

be conveniently consulted by historical students<sup>1</sup>. In striking contrast to both the mediaeval and the modern series, the intervening group of "Records and Papers of State" has been almost completely described in the elaborate official Calendars above referred to. The value of this unusual assistance is still further enhanced by the circumstance that, during the era of personal monarchy, the new administrative department of the Secretaries of State supplies our chief information regarding the political and social life of the nation, superseding herein the functions of the Courts of Law whose Records henceforth become of secondary interest.

It is scarcely to be wondered, then, if students of History have come to regard the State Papers as the all-important source of information for the 16th and 17th centuries, and this being the case that they have also regarded the printed Calendars as the equivalent of the Papers themselves.

This indeed is the process of research which is followed in almost every instance, and its convenience will be as obvious as the fact that it is not at the same time either exhaustive or conclusive. So long, however, as we are not required to look beyond the pages of the printed Calendars there will be little difficulty in supplying our needs from this single source. It would even be superfluous to suggest headings for a reference list of subject-matters which every student can compile for himself from the ample Indexes to these volumes. But the specialist who is concerned with the intricacies of some political, constitutional, or economic problem cannot afford to take matters quite so easily. Even the general historian does not accept everything that he finds in a printed text. Moreover apart from the occasional necessity for further investigation, an enquiring mind would naturally wish to know what these State Papers are, under what conditions they were written, received, and preserved in official custody, and what relationship each series of Papers bears to the others and to external sources.

The definition of a State Paper, from an official point of view, may be gathered from the previous account of the custody and arrangement of the class, and to a considerable extent the important subject of the environment of these official documents may be studied in the same connexion. For practical purposes, then, the student will have to bear in mind that the State Papers of the 16th, 17th and 18th centuries will

<sup>1</sup> The few important exceptions to this statement only serve to accentuate the disparity in question, but for the present purpose of historical methodology the official *Guide* will be found all-sufficient.

be found to exist in official custody in such documentary forms and in such a state of completeness as the varying conditions of their execution and preservation may have permitted. That is to say in the earliest period he will expect to meet with numerous transitional forms representing the encroachments of the new Secretariat upon the jurisdictions of the Chancery and Exchequer<sup>1</sup>. These will also indicate the active intervention of the new state-craft in such matters as local or ecclesiastical administration, commercial or industrial policy, and the technical subjects of the national health and defence. By degrees these abnormal instruments disappear or assume a purely ministerial form<sup>2</sup>, whilst the fiscal and technical business of the State is relegated to distinct departments<sup>3</sup>. Finally it will be observed, as a special feature of their official environment, that the very extent of these State Papers varies from time to time according to the facilities that may exist for their safe custody<sup>4</sup>, so that the completeness of our historical materials from this source will depend on conditions which are not apparent from the existing inventories.

The method of study that is indicated by the above considerations is neither very abstruse nor very severe. Our first object must clearly be the identification of the sources and an examination of their official environment. For this purpose we should wish to know in what repositories the documents with which we are concerned have been preserved, or from what departmental collections they may have been drawn, in order that we may ascertain whether they are complete in themselves, or whether they form only a portion of certain contemporary proceedings, the remainder of which must be sought for elsewhere. In short, we must first account for the whole of the existing documents, wherever they may be, carefully noting such as appear to have once existed but cannot now be traced. Then, and not till then, we shall be free to make such use of the printed Calendars or texts as our purpose may require<sup>5</sup>.

<sup>1</sup> In the Elizabethan and early Stuart periods warrants or licences to pass the sea are still registered (Exch. K. R. licences to pass the sea) but from that date they appear amongst the State Papers.

<sup>2</sup> The collection of original warrants is considerable only for the reigns of Elizabeth and James I. Before long these instruments assumed an epistolary form in the shape of departmental Orders, Instructions, &c.

<sup>3</sup> The Admiralty, Navy Board, War Office, Ordnance Office, Board of Trade, Treasury, Audit Office, Mint, Post Office, &c. in the 17th century.

<sup>4</sup> See *D. K. 30th Report*, p. 212 sq., for instances of the non-transmission of secretarial papers into official custody and of their "embezzlement" by public officials. Cf. also below, p. 88.

<sup>5</sup> A very valuable analysis of the State Papers of the early Stuart period and interregnum by Mrs S. C. Lomas will be found in *Transactions* of the Royal Historical Society,

To accomplish this object we should receive much assistance from a knowledge of the environment of the documents themselves and from the classification of these and kindred types. For example a diplomatic description will enable us to ascertain from the form, date, superscription, address, and subject-matter of a certain document by what official personage it was received and in what official collection it was preserved<sup>1</sup>. From these particulars we can further discover whether related documents exist in other official or private collections. Thus if our document is a Warrant or draft Privy Seal, we shall find its confirmation or its sequel in the Chancery or Exchequer Records; if it relates to naval or military or other departmental matters, the records of those departments may with advantage be referred to. Again a State Paper relating to a conspiracy against the Crown might be duplicated in the *Baga de Secretis*, amongst the Records of the King's Bench, or in one of the collections of Law Papers in departmental<sup>2</sup> or private<sup>3</sup> custody. So too the correspondence of a long succession of ministers is supplemented by the collections that were at one time in their private possession.

It will be evident therefore that the State Papers, as they are set forth in the printed Calendars, cannot for a moment be regarded as a self-contained series. If we would use them aright, we should be prepared to verify or supplement their evidence on occasion from other sources. These supplementary sources are well known to us, two, the legal and departmental Records, being official collections, and the third comprising the great external class of MSS. which are not, now, at least, in official custody.

With the first of these we have already dealt, and with the second we shall have to deal hereafter, whilst the third is beyond the limits of our present survey. "But how," it might be asked, "are we to employ these sources to the best advantage?"

Perhaps the simplest view of the matter would be to regard the State Papers as a special and privileged source, and subject to the limitations that have been indicated above. This is the least precaution that can be taken by us, and it implies the consciousness of a

N. S. Vol. xvi. For other important notices see Mr Brewer's preface to Vol. i. of the Calendar of *Letters and Papers, Henry VIII*; Mr Bruce's preface to the Calendar of State Papers Domestic, 1625—1626; Mr Sainsbury's notices in *D. K. 30th Report*, and the well-known works of Scargill-Bird, Thomas and Edwards.

<sup>1</sup> Most valuable assistance in this connexion has recently been given to the student of the Foreign State Papers by the publication under the supervision of Professor C. H. Firth of systematic lists of English ambassadors abroad.

<sup>2</sup> e.g. H. O. Law Papers.

<sup>3</sup> e.g. Brit. Museum.



method of research which is seldom recognized. To complete the process by our own investigations is a matter that must be left to the conscience or ability of each of us.

But there still remain a few odd points of procedure which may be noted for the benefit of the uninitiated. The parallel evidence of the legal Records and State Papers may be studied in one direction in the "Letters and Papers" of the reign of Henry VIII<sup>1</sup> and in another direction in the Records of the Chancery and Exchequer down to the reign of George III<sup>2</sup>. That of the Departmental Records may be gathered from the official lists<sup>3</sup> and from the history and sources of the several departments referred to in the following section. The novice who consults the printed Calendars of State Papers will perhaps not fail twice to note the existence of *Addenda* for the periods between 1547 and 1670, whilst the existence of uncalendared "State Papers Supplementary" and "Miscellaneous" has been already referred to<sup>4</sup>. The curious technical arrangement of the "Commonwealth Committees" is worth the careful attention of those who may make a study of that period<sup>5</sup>. Students of the reign of Charles II will find the papers of the Navy Board uncalendared after the year 1673, and they must look outside the official Archives for the Admiralty<sup>6</sup> and War Office<sup>7</sup> papers of the 17th century. "King William's chest" will be found to furnish a valuable supplement to the dwindling State Papers of the later Stuart period, in which the last gap remains to be closed in the long series of printed Calendars<sup>8</sup>. The Foreign series it is true have only been proceeded with to a little more than half-way through the reign of Elizabeth, but the remaining originals, which had been arbitrarily included amongst the departmental papers of the Foreign Office have now been very properly replaced as "Foreign State Papers." A similar reconstruction still remains to be accomplished in the case of the Colonial State Papers previous to the year 1782, and it will be noted

<sup>1</sup> See the *Calendar*, Vol. I., Preface, and *passim*. That this edition also takes cognizance of external sources is a fact of the deepest significance.

<sup>2</sup> See S. R. Scargill-Bird, *Guide to the Public Records*, where a very valuable digest of the contents of the miscellaneous collections incorporated with the State Papers will be found.

<sup>3</sup> See *ibid.* s.v. Departmental Records.

<sup>4</sup> To these the "Exchequer Commonwealth Papers" might well be added without making the list exhaustive.

<sup>5</sup> This has been well explained by Mrs Lomas in the Essay mentioned above.

<sup>6</sup> e.g. the Pepysian MSS. at Cambridge, utilised with such valuable results by Dr J. R. Tanner.

<sup>7</sup> e.g. the Blathwayt MSS. at the British Museum.

<sup>8</sup> Cf. Calendars of S. P. Dom. 1689—1693.

that the Calendar of the series for the East Indies remains in suspense pending the operations of the India Office upon the larger series of State Papers in its departmental custody<sup>1</sup>. It will be noted further that Tangier and Dunkirk have not been provided for in this distribution of the Colonial Calendar, but the omission has to some extent been made good by private enterprise<sup>2</sup>.

These miscellaneous notices bring our examination of the State Papers down to the beginning of the 18th century, after which date printed materials fail us except for the parallel information supplied by the departmental Calendars of the Treasury and Home Office. It is however very questionable whether the continuation of Calendars of Domestic State Papers alone during the remainder of this period would be worth attempting, from the student's point of view, owing to the notorious fact that the State Archives have been depleted of a third of their contents through the deliberate appropriations of the ministers of Hanoverian kings<sup>3</sup>. The distribution of the existing State Papers in respective reigns can only serve as a rough indication of their relative bulk, since the volumes and bundles are not absolutely uniform in size. The following calculation from the published List does not include the State Papers Foreign or Colonial, nor those for Scotland or Ireland, the Borders, Channel Islands, or Hanover; nor yet the *Addenda* and the Supplementary or Miscellaneous State Papers. Again the Warrant Books, Domestic Entry Books, Docquets, Passes, Petitions, Proclamations, Precedents and a number of similar Letter Books or Entry Books would have to be reckoned with. It will, however, probably be found that all these additional sources have been preserved in a corresponding *ratio* to the existing collection of State Papers Domestic, but the important point to remember is that these scattered sources exist for each reign. A table of this distribution is given in an Appendix.

<sup>1</sup> These of course were not at any time official State Papers, having been in the possession of the old East India Company till 1857. The State Papers proper for the East Indies in the Colonial series are comparatively unimportant before the year 1757.

<sup>2</sup> See Sir L. Playfair's *Bibliography of Morocco*, and cf. the *History of the 2nd (Queen's) Regiment*, Vol. 1. by Col. John Davis, the monograph on Tangier by Miss E. Routh, in R. Hist. Soc. *Transactions*, Vol. XIX., and the valuable references to Dunkirk by Prof. Firth, *ibid.* Vol. XVII. There are also many references to Tangier in the Fanshawe Papers (*Historical MSS. Comm. Report* (1899)).

<sup>3</sup> Manuscript Calendars of the Domestic State Papers exist from the beginning of the reign of George I to the year 1746 (Scotland, 1760), those for the years 1745—1746 being exceptionally full and valuable. The Domestic Papers for this period do not however appear to have been preserved on any definite system, and they contained many documents which clearly belong to the Colonial series and to distinct departments.

The Letters and Papers of Henry VIII (in spite of the bulk of the famous Calendar) only number some 200 volumes, the Domestic Papers of Edward VI 19 volumes, and those of Mary only 14 volumes exclusive of *Addenda*. The Domestic State Papers of the reign of Queen Elizabeth, reduced as they are in bulk through the loss of the Hatfield and Lansdowne collections alone, yet number, without the *Addenda*, 300 volumes and cases; those of James I over 200 volumes; and those of Charles I considerably more than 500 volumes, though many of these contain miscellaneous documents and parchment Records. During the last two reigns the losses of official documents from the usual causes are comparatively slight<sup>1</sup>, but with the period of the Civil Wars and Interregnum a wholesale concealment and even destruction of Political papers must be added to the existing system of "embezzlement<sup>2</sup>." The regular series of Letters and Papers between the years 1642 and 1660 shrinks to insignificant dimensions, but on the other hand the Archives are reinforced by the Day Books and Correspondence of the Commonwealth Committees, one of which alone has contributed 26 numbers.

The State Papers of the Restoration period are largely swelled by naval correspondence, but in spite of the increasing losses which Sir Joseph Williamson so feelingly deploras, they make a brave show as a historical source down to the last years of the reign<sup>3</sup>. Then we have a comparative blank for the reign of James II<sup>4</sup>, followed by a slight revival for that of William and Mary, thanks largely to the careful preservation of "King William's chest<sup>5</sup>." But with the reign of Queen Anne the Domestic State Papers are again reduced in bulk and in political importance<sup>6</sup>, and with the accession of the House of Hanover they become of secondary interest compared

<sup>1</sup> The history of the Cecil, Coke Conway, and Winwood collections amongst others will show that in spite of unusual vigilance on the part of the government, this official misdemeanor could no more be put down than the prevailing official dishonesty.

<sup>2</sup> e.g. the papers of Thurloe and Nicholas. Many were apparently destroyed by Bradshaw. Amongst the others which have survived in private custody may be mentioned the Clarendon, Ormonde, Fairfax and Clarke collections.

<sup>3</sup> There are 450 volumes and bundles for this reign. In 1706 the keeper of the Papers reported that there were very few Papers in the office of a later date than 1679; but some were afterwards recovered and deposited in the Transmitter's Office. Still the quantity of State Papers for the last six years of the reign is relatively insignificant. The missing Papers for this and the following reign cannot by any means be accounted for in private collections, and a large number were doubtless suppressed for political reasons.

<sup>4</sup> Only five volumes and bundles of State Papers are preserved for this reign.

<sup>5</sup> The number of volumes, &c. is 35, including 18 for "King William's chest."

<sup>6</sup> There are 30 volumes and bundles for this reign. The existence in private custody of the Harley Papers alone will explain the shortcomings of this collection.

with the vast and systematic collections preserved in private custody<sup>1</sup> and the ever expanding scope and volume of the Departmental Records<sup>2</sup>.

(c) *Departmental Records.*

We have already seen that considerable difficulties stand in the way of a close study of the history of the several departments of the State by means of their existing Archives. Indeed only the scantiest materials exist for that purpose, whilst no conscious traditions of an earlier official practice have been preserved by the modern departments themselves.

At the outset, then, we are confronted with the fact that great changes have undoubtedly taken place in the administrative system of certain departments which have affected the whole character of their Records, without any satisfactory explanation of the matter being available<sup>3</sup>. In any case, however, a knowledge of the ancient departmental procedure would not enable us to ascertain all the uses to which the existing Records may be put, for the simple reason that a large number of these Records can have no connexion with the functions of the department to which they have been provisionally assigned.

In short, an exhaustive analysis of the contents of these official collections cannot be attempted with any greater hope of success than attends their classification on a scientific plan until the history of the departments themselves, including the vicissitudes of their respective Archives, has been further elucidated by the modern antiquary.

Such a complete survey of the Government Archives is, however, beyond the scope of the historical student's researches. A minute examination of the evidence of the more ancient departmental Records may be, and indeed has been required in connexion with official precedents, and the results of such investigations are occasionally published in the shape of Blue Books. There is, however, an

<sup>1</sup> It is unnecessary to mention more than the Townshend, Rutland, Newcastle, Chatham, Lansdowne and Egremont collections.

<sup>2</sup> These assume a new constitution and activity after the Revolution, though in turn subjected to many losses of Records from the usual causes.

<sup>3</sup> Thus, in the case of the Treasury, a change of practice is observed in the years 1660, 1678, 1689 which is still involved in some obscurity. The changes consequent on the great departmental reforms of 1782 and 1832 have been referred to above.



obvious distinction between the use of these Records for official or for historical purposes and the latter method only will concern us here<sup>1</sup>. Therefore no departmental compilations, Indexes or other special aids to official or privileged researches can be taken into account for the purpose of indicating the usual methods of research in these historical sources. Again it would be obviously impracticable to attempt even the briefest description of the subject-matter of the principal classes of documents in the order of the several departments. A few general principles and a few hints for the investigation of the Departmental Records at large must take the place of a detailed analysis of their contents, but the illustrations offered in support of these theories will be found to cover a wide field of research.

Perhaps the most practical method of procedure will be to follow the structural order of the diplomatic forms indicated in our classification of these Records, referring by way of illustration to the various subjects of departmental interest.

The great class of original papers or In-Letters<sup>2</sup> is naturally the first that engages our attention, and in this we may notice forms very similar to those which occur in the great collection of State Papers, including not merely those of a true epistolary type but others of a more purely diplomatic character, such as Petitions and Addresses, together with a number of anomalous forms. Naturally care must be taken to distinguish between the relative authority of a signed paper, a copy, and a draft respectively; whilst it will be found that the first of these forms may be further differentiated according as a letter or paper is holograph or merely signed<sup>3</sup>. A characteristic feature of these departmental collections is seen in the numerous Entry Books, in which copies sometimes of whole series of original letters have been preserved. Finally we have once more to grapple with the problem of inclosures, missing or misplaced. These points are primarily of diplomatic interest, but they may also have an important bearing on

<sup>1</sup> Thus the Records of the old Board of Auditors of Public Accounts include series of Minutes, Reports, Orders, Instructions, Certificates, Memorials, &c., which possess a certain diplomatic interest though probably but little historical value.

<sup>2</sup> These are usually furnished with descriptive titles such as "Intelligence," "Intercepted Letters," "Governor's (Colonial) Despatches," "Captains' Letters," "Promiscuous Letters," "Miscellaneous Letters," &c. A parallel list of such titles will doubtless be compiled before long by some enterprising student.

<sup>3</sup> The importance of such distinctions is at least as great as the exact terminological description of mediæval instruments, and yet they are rarely preserved in printed works. A model however exists in the method employed by Messrs B. F. Stevens and Brown for the description of MSS. relating to the American Revolutionary War (cf. *Hist. MSS. Com. Report on Royal Institution MSS.*, 1904-1907).

the selection of these Records for the purpose of historical research as well as for that of their preservation<sup>1</sup> and classification<sup>2</sup>. It is well known that in several series of later State Papers which are technically classified as Departmental Records, the inclosures, especially those of a bulky nature, are frequently found separated from the covering letters and they are even preserved as separate series<sup>3</sup>. In such cases the identification of the sources from which these documents were derived is sometimes material to their historical value. In other cases the inclosures will have to be sought for in various directions, a circumstance which is largely due to the prevalent custom of communicating such documents in their original form for the information of other departments or even for the Government press<sup>4</sup>.

In one respect at least the In-Letters of the departmental period may be more easily consulted and accounted for than the earlier State Papers. The well-known official practice of numbering all despatches of a regular series in consecutive order, and of affording further indications of their sequence, if not of their significance, by the use of such advertisements as "Secret," "Private," "Separate," &c. will often prove of much assistance to the observant reader<sup>5</sup>. Moreover in this later period few despatches have been left to be deciphered, and the ministerial clerks who performed this useful service have also not unfrequently been at the pains to docquet important despatches with a clear and helpful *précis* of their contents.

Although the typical In-Letter, with its inclosures, has been regarded here as a communication received by the department, it must not be forgotten that a large number of similar documents has been preserved in official custody, most of which are of the nature of deposited Records, that is to say, not addressed to the department, but acquired by accident, by the fortune of war, or by the devices of diplomacy. These therefore will be referred to under their appropriate classification. Possibly a considerable number of such letters

<sup>1</sup> In connexion with the custody of Departmental Records it will be observed from the published Reports that these distinctions have chiefly guided the selection of a large quantity of departmental documents for destruction.

<sup>2</sup> See above, p. 70 sq.

<sup>3</sup> *e.g.* Colonial Office "Transmissions" and "Sessional Papers," Board of Trade "Maps" and "Acts," Foreign Office "Newsletters," &c.

<sup>4</sup> In most cases, certainly, copies or extracts only were communicated ; but the practice was often to make use of the original.

<sup>5</sup> The loss of letters forming part of such a series can thus, as a rule, be easily detected and their identification in other collections is hereby facilitated. Letters of a semi-official or private nature are not usually numbered. The official practice was then, as now, to distinguish the letters, when referring to them, by means of these numbers or headings.

may have been originally inclosures belonging to the regular series of In-Letters, though others have clearly no connexion with that class. It will also be obvious that the official correspondence was actually represented in another aspect by a series of original Letters which were addressed by the departments to various persons. When these originals were received and retained by private individuals they no longer concern us here, their place being taken by the drafts or copies preserved in official custody. In other cases, however, these originals were received by an official person or body and thus two versions of the same document have become available<sup>1</sup>, through the concentration of the departmental Archives. Indeed it may happen, as in the case of the transmitted Archives of a foreign Legation, that both versions are now preserved in a single collection<sup>2</sup>; but in the case of Colonial despatches the custom seems to have obtained, from an early date, of regarding the government Archives as a Colonial possession. The question naturally arises as to the course which the student should pursue with regard to this choice of texts. In the event of the original despatch being preserved in duplicate or triplicate, no hesitation need be felt in discarding the secondary versions, but some preference might seem to be due to an original document over a formal copy. On the other hand the use of a bound volume which is frequently indexed is more convenient to the reader than that of loose papers, and, as the authentication of signatures is not here in question, the chief value of these resumed collections seems to lie in the occasional preservation of original inclosures, which of course were not usually copied in official Letter-Books.

Closely connected with the subject of the use of these In-Letters, is that of the Registers in which their receipt was recorded and their ultimate destination indicated. The existence of a Register in some form or other might almost be presumed in the case of a modern department, but the preservation of this class of Records in official custody is somewhat erratic. It would seem indeed that no such expedient was employed in the departments of the Secretaries of

<sup>1</sup> The textual value of the restored original of an official despatch may be considerable, especially in the case of signed letters, for at the last moment, after the act of signing, a holograph postscript might be added which would not be found in the official draft or copy. This was sometimes done to ensure secrecy.

<sup>2</sup> The same circumstance is known to have occurred in the case of great administrative departments such as the Admiralty and War Office, the records of whose sub-departments, which were formerly distinct establishments, were brought together during the last century. A large mass of official correspondence belonging to the latter, in the shape both of *In-Letters* and *Out-Letters*, has been dispensed with in consequence of such duplication.

State in early times<sup>1</sup>, though official Registers probably exist for a later period. Several perfect series of Registers have however been preserved by the departments which have been administered by a Board of Commissioners from an early date. The Admiralty in particular is distinguished for the minute and methodical registration of its papers and the "Indexes" and "Digests" of its principal departments<sup>2</sup> form one of the greatest curiosities of the modern official Archives. Moreover these monumental compilations have a special importance from the fact that they preserve the date, authorship, and subject of correspondence which in many cases has not been preserved<sup>3</sup>.

The next stage in the official treatment of the In-Letter is marked by the departmental Minute which records the nature of its contents and the decision arrived at on the subject propounded. In this aspect the Minutes might be regarded as superseding the information contained in the Registers. But apart from the greater facility of access which the latter afford, it does not follow that every paper received was the subject of a Minute. Conversely the Minutes will be found to record many official acts which had not their origin in any previous communication, and on this account their importance would be considerable were it not for the fact that in most cases the brief indications given by the Minute are expressed at length in an appropriate instrument. This aspect of the case is especially noticeable in a later period when the Minute assumes a cursive form as a hasty endorsement of an original paper from which the experienced clerk can nevertheless evolve a stately missive. Therefore provided that

<sup>1</sup> There were, it is true, special compilations for the purpose of indicating the nature of this original correspondence, such as Calendars (Colonial Office, Board of Trade), Précis Books (Foreign Office) and Journals or Indexes (Admiralty, War Office), but these were intended for convenience of official reference only. The Privy Council Registers were probably regarded as sufficient for this purpose, a large proportion of the "Miscellaneous Letters and Papers" preserved amongst the State Papers addressed to the Secretaries of State not being of a nature requiring any reply.

<sup>2</sup> *e.g.* the Admiralty Board, Navy Board and Greenwich Hospital. The Registers of the first named department being by far the most extensive series. The approximate measurement of one of these volumes near the end of the reign of George III is 24 inches in height by 18 inches in depth and 12 inches in thickness, the weight being probably one cwt. According to the printed List, in a still later period, more than one volume of Registers exists for each year. For the use of the Treasury Registers, see Prof. Andrews's Report in the *American Historical Review* (1905).

<sup>3</sup> We may gather from official Reports that two of the largest series of these Registers, those for the War Office and Ordnance correspondence, afforded very little information as to the nature of the incoming correspondence. In the several departments the place of the modern series of Digests described above is taken in an earlier period by abstracts and indexes of In-Letters.



the latter record can be identified with ease and certainty in its several forms of an Out-Letter, Warrant, Order, Commission or the like, nothing will be gained by a reference to the actual Minute on which such action was taken. This identification however is not always an easy task, and in one instance at least<sup>1</sup> the Minutes serve as an invaluable key both to the immediate action taken and also to former and further correspondence on the same subject. In the two instances referred to, the Privy Council Office and the Board of Trade and Plantations, the Minutes, which exist from the 15th and 17th centuries, are styled respectively Registers and Journals. From the latter of these, especially, the origin and destination of the various letters and inclosures addressed to the Commissioners by Colonial governors or by individuals can be clearly ascertained, and the use of this means of identification has proved a revelation to the modern school of American historical students. To some extent these board Minutes serve the purpose of reference books, that is to say they indicate the particular department, especially the Privy Council itself, to which certain cases were referred for report, thus affording a means of tracing many documents which for some reason or other were not returned to the department from which they were issued.

We might perhaps have expected that these official references would have been preserved in a separate series of Entry Books, but the only series of such Records which now exist are the Reference Books of the Treasury and Ordnance Office, the former of which extending from the year 1680 to 1819 are of great value for the earlier period, as reciting the texts of documents which in many cases are no longer preserved.

The Reports which ensued upon such References are somewhat better represented in the departmental Archives, an early and valuable series being preserved in the War Office Records and another in those of the Ordnance Office. In other cases, however, these Reports are not entered in Report Books proper, corresponding to the departmental Reference Books, but in special series of Entry Books. Sometimes too they are only preserved in their original form amongst the In-Letters. Amongst these may be noticed a valuable collection of Opinions of the Law Officers, of which the originals or entries will be found in the Treasury and Home Office papers, as well as in the Records of the Admiralty and other departments, although after a certain date they are prohibited as a source of

<sup>1</sup> The Ordnance Office Minutes.

information. At the same time it must be remembered that the Reports and Opinions of the Law Officers preserved in official custody do not by any means constitute the whole of the existing documents, a considerable number being preserved in public and private collections<sup>1</sup>.

The In-Letter with its inclosures having been dealt with by way of Registration, Minute, Reference and Report it remains for us to consider the nature and capabilities of the several historical sources included under the head of the Out-Letter.

Here we must be careful to distinguish in the first place between Entry Books and Letter Books, for the title of the former properly implies fair copies of original papers, although copies of Out-Letters are also to be found under the same title and even in the same volume.

In the next place we have to distinguish between the several species of Out-Letters which the departmental Minute has brought into existence. Of these by far the most usual form is that of the official letter, traversing the In-Letter under the direction of the Minute, and giving original information or instructions so far as possible according to a common form. It has been previously intimated that the chief difficulty that is likely to be experienced in consulting this class of official Records lies in ascertaining the particular series of Letter Books to which a letter upon a given subject may have been relegated. In the earliest and simplest practice of the departments a General or Common Letter Book was kept for all purposes<sup>2</sup>, but before long the number of the Letter Books is found to correspond with the principal branches of public business<sup>3</sup>. The recognized headings under which this business was conducted can be ascertained from the official *Guide*, but the contemporary definitions of the several subjects are somewhat vague, and the system by means of which the correspondence was assigned to the respective series of Letter Books was wholly arbitrary<sup>4</sup>. A knowledge of the appropriate series can therefore only be obtained by experience, which is also needed, together with considerable self-restraint, for the successful use of the erratic indexes with which most of these early Letter Books are

<sup>1</sup> e.g. the British Museum (Stowe, Hardwicke collections) and Inns of Court.

<sup>2</sup> In later times this General Letter Book was often styled a "Domestic Book."

<sup>3</sup> The titles given to the several series are not always of a local or departmental character, such as North Britain Book, Lords' Letter Books, Secretary's Letter Books, Commander-in-Chief's Letter Books, Treasury Letter Book, &c., &c. They are frequently more or less descriptive, such as Military, Secret, &c.

<sup>4</sup> These were probably explained by means of a departmental key.

furnished<sup>1</sup>. In fact it may be accepted as a useful maxim that the index of an average departmental Letter Book is not to be relied on, though its assistance is by no means to be despised.

Bearing in mind that these epistolary forms are also to be found in so-called Entry Books of Orders, Instructions, Warrants, Commissions and the like, mingled with those formal instruments, we may proceed to describe the characteristics of the latter sources in their turn. Curiously enough, in spite of their evident importance, a complete series of any one of these types is comparatively rare. Perhaps the most striking void is noticed in the case of the Warrant, although many of these instruments will be found in general Entry Books and under still more unlikely titles as in the well-known case of the War Office "Miscellany Books<sup>2</sup>." Again a large number of Warrants have been preserved in their original form, but after a careful search we must come to the conclusion that heavy losses have been sustained in this quarter<sup>3</sup>, particularly on the military side. Apart from the Secretary of State's Warrants preserved in the Home Office Records<sup>4</sup>, the most complete of the remaining series are those contained in the archives of the Treasury<sup>5</sup>, Ordnance Office<sup>6</sup>, Admiralty<sup>7</sup> and Lord Chamberlain's Office<sup>8</sup>.

The exact distinction between the Warrant and the Order, or between the latter in turn and the official Out-Letter, is a diplomatic question which will be discussed elsewhere<sup>9</sup>. It is sufficient to bear in mind that the Order is not found in an Order Book alone, and in fact some so-called Orders are merely extracts of Minutes<sup>10</sup>, whilst others appear as entries made in the Report Books which record the

<sup>1</sup> In addition to numerous omissions and unintelligent entries, subjects will frequently be found indexed under the title of the instrument, as "Warrant for," "Order for," &c., and usually all matters concerning a regiment under the name of its colonel. Naval subjects, on the other hand, are usually indexed under the name of the ship or station.

<sup>2</sup> These, however, are only special Warrants from 1670 to 1817 preserved as precedents and do not represent the whole issue from this department since the reign of Charles II. Some Warrants relating to military matters are entered in the Home Office Warrant Books, since that department had the nominal control of military affairs down to the year 1794.

<sup>3</sup> For the dispersal of the secretarial Warrant Books in the 17th century, cf. State Paper Office Documents (*D. K. 30th Report*, Appx. *passim*).

<sup>4</sup> See below, Appendix v.

<sup>5</sup> From 1620 to modern times.

<sup>6</sup> From 1642 to 1855.

<sup>7</sup> From 1695 to 1815.

<sup>8</sup> From the 16th century to modern times, perhaps the most extensive of the departmental collections.

<sup>9</sup> See Part II. What are generally known as Domestic Entry Books include Letters, Commissions, Orders, Instructions, Licences, Passes, &c., as well as Warrants, and the same applies to departmental Records.

<sup>10</sup> As in the case of the Ordnance Office.

results of departmental references<sup>1</sup>. The further departmental instruments mentioned above are chiefly applicable to naval, military and diplomatic business, but here again the greatest difficulty will frequently be experienced in identifying particular Instructions<sup>2</sup>; whilst in later times the entry of a naval or military Commission<sup>3</sup> is usually confined to a list of names and dates, being thus practically indistinguishable in form from an official Precedent Book<sup>4</sup>. The best examples of both these departmental instruments may probably be found in the Orders and Instructions of the Admiralty<sup>5</sup>, and the Commission Books of the War Office<sup>6</sup>, whilst the Orders of the Ordnance and Navy Board are amongst the earliest of Departmental Records.

Pursuing the order of our structural classification we come next to the largest class of the Departmental Records, the official compilations in the nature of Precedent Books, which include such forms as Statements of Accounts, Establishments, Estimates and Returns<sup>7</sup>.

In these miscellaneous Records we can recognize the results of the departmental process which has already been described. The Accounts which have been submitted, or which are required to be kept in the ordinary course, are entered here in the Bill Books, Debentures, Imprests, Pay Books, Cash Books, Journals, and Ledgers dealing with every branch or stage of official business<sup>8</sup>. Many of these serve also as nominal rolls of soldiers<sup>9</sup>, sailors<sup>10</sup> or civilians<sup>11</sup> of every rank, but special sources of information for this subject exist in the shape of numerous Muster Rolls<sup>12</sup> and Muster Books<sup>13</sup>, Victualling

<sup>1</sup> Some Orders occasionally designated by the title of "Select Orders" are really Precedents and these are also described in still later times as "Records."

<sup>2</sup> Particularly "sealed orders" to naval commanders. In connexion with this subject reference should also be made to the War Office, Home Office, and Colonial Office Records, and even to those of the Foreign Office, so far as the last three classes are open to the public.

<sup>3</sup> *e.g.* the Commission Books of the War Office and Home Office and the Commission and Warrant Books of the Admiralty.

<sup>4</sup> *e.g.* the War Office Notification Books.

<sup>5</sup> From 1665 to 1815.

<sup>6</sup> From 1660 to 1873.

<sup>7</sup> These are for convenience of classification and reference generally grouped together as "Registers" in the latest official arrangement. "Precedent Books," so-called, frequently contain valuable entries which are in some cases unique.

<sup>8</sup> These are especially characteristic of the Archives of the Admiralty, War Office, Ordnance Office, Commissariat, Pay-master General's Office, and the Revenue departments.

<sup>9</sup> *e.g.* War Office regimental Pay Lists and Officers' Half-pay and Pension Lists.

<sup>10</sup> *e.g.* Admiralty ships' Pay-books and Officers' Full-pay Registers and Half pay Lists.

<sup>11</sup> *e.g.* Pay-master General's and Accountant General's (Naval) Pay Ledgers.

<sup>12</sup> From 1746 to modern times.

<sup>13</sup> From 1670 to modern times, including Sick Lists.



and Subsistence Lists<sup>1</sup>, Census<sup>2</sup> and Service Returns<sup>3</sup>, Description Books<sup>4</sup>, Registers<sup>5</sup>, Entry Books<sup>6</sup>, Vouchers<sup>7</sup>, Commission Books, Succession and Notification Books<sup>8</sup>, Records of Certificates<sup>9</sup>, Appointments<sup>10</sup>, Promotions, &c., together with a more formal series of Establishment Books<sup>11</sup> and some assistance from Exchequer Records which are no longer of a Departmental nature<sup>12</sup>. More nearly related to the Accounts are the Estimates, Prices, Surveys of Stores and other statistical Records<sup>13</sup> the value of which diminishes from the middle of the 18th century. Following these are the Returns made or at least used for other purposes than the above, such as the Ships' Logs<sup>14</sup>, Regimental Inspection Reports<sup>15</sup>, Court Martial Reports<sup>16</sup>, &c. As for the common-place books, such as Précis Books, official Diaries, Address Books and Posting Books together with issue books of Records for official reference, these too will have their uses on occasions<sup>17</sup>, though their chief interest is connected with topographical and purely Departmental history.

The Deposited Records, which come last of all in this structural classification, may be distinguished from the preceding class not so much in respect of form or use as by the accident of their official custody. Some of these, it is true, are rather of the nature of legal Records than of State Papers, and their classification under the head of Departmental Records is doubtless due to the exigencies of a dual control<sup>18</sup>. In course of time many of these will doubtless be transferred to their natural position amongst the Public Records, and therefore we need not concern ourselves here with such departmental sources

<sup>1</sup> From 1793 to modern times, including prisoners of war and convicts.

<sup>2</sup> From 1819 to 1836, including Colonial slaves and convicts.

<sup>3</sup> From 1800 onwards for both services chiefly by Order of Parliament.

<sup>4</sup> Of soldiers and sailors from 1800 onwards.

<sup>5</sup> Greenwich Pensioners.

<sup>6</sup> Ditto.

<sup>7</sup> *e.g.* of Army Agents and Contractors.

<sup>8</sup> From 1684 onwards (War Office).

<sup>9</sup> *e.g.* of naval officers (Navy Board).

<sup>10</sup> *e.g.* Appointment Books of the Lord Chamberlain's Department.

<sup>11</sup> *e.g.* Royal Household, Army, Custom-House, &c.

<sup>12</sup> The Auditors' Patent Books and Pells "Appointment Books" which serve as a key to the same.

<sup>13</sup> *e.g.* for the Ordnance Office (1570 to 1855) and Navy Board (1651 to 1832).

<sup>14</sup> From 1670 to modern times.

<sup>15</sup> From 1750 to modern times.

<sup>16</sup> Of the Admiralty, 1680 to 1839. Those for the War Office are not accounted for.

<sup>17</sup> *e.g.* for the purpose of dating the despatch or receipt of an important letter. Some of these contain exact itineraries of the King's Messengers over the whole of Europe; others show on what occasions certain Papers were consulted by the Ministers of George III.

<sup>18</sup> *i.e.* by the respective departments under the charge and superintendence of the Master of the Rolls. Some of these collections are already deposited in official custody.

as Ancient Deeds, Ministers' Accounts, Court Rolls, Rentals, surveys and the like<sup>1</sup> or even with 17th century newsletters which more properly belong to the State Papers<sup>2</sup>. There are other documents of a purely personal and private nature preserved in these Departmental collections<sup>3</sup> and others again which have a legal value or interest, whilst a few so-called Records are not of a documentary nature at all. Those that will be found of chief value for historical purposes are the muniments of the several expired Commissions and dissolved Corporations together with the evidence considered in respect of various international Claims and Demands<sup>4</sup>, whilst Intercepted Letters<sup>5</sup> and Prize Papers<sup>6</sup>, when detached from the In-Letters to which they were presumably annexed, are frequently of great historical interest<sup>7</sup>. In spite of the obvious advantage of an analytical method of research based upon the structural classification of the Departmental Records it will be necessary in many cases to ascertain in the first place the technical bearings of the subject before it can be assigned to its appropriate sources. Some knowledge therefore of the official environment of the departmental Archives will be necessary, and this can to a certain extent be obtained from a study of printed works of reference such as a Biographical Dictionary, an official Calendar, and a book of Dignities, to supplement the information contained in Naval and Military Histories, particularly for individual regiments, Histories of Treaties, of Trade, of the Colonies and the general political and constitutional History of the period between the Restoration and the Reform Bill.

It will in fact be found that, in spite of the scarcity of special historical texts for this later period, the printed literature available is far more extensive and serviceable than is generally supposed. In many cases indeed it may be suspected that the student who is at the pains of consulting the departmental Archives to ascertain a particular fact, has not troubled to ascertain in the first place whether

<sup>1</sup> Amongst the Records of Greenwich Hospital, the Ecclesiastical Commissioners and the Land Revenue Record Office.

<sup>2</sup> Amongst the Records of Greenwich Hospital (Miscellanea) dating from 1681 to 1695.

<sup>3</sup> *e.g.* Wills, Certificates, and Effects of Soldiers and Sailors.

<sup>4</sup> *e.g.* During the Seven Years' War, the American War of Independence, the Napoleonic Wars and the suppression of slavery, amongst the Records of the Treasury, Audit Office and Foreign Office. For details see the printed *Guide*.

<sup>5</sup> For most departments but especially the Foreign Office and Admiralty.

<sup>6</sup> *e.g.* Admiralty Records, some of the most interesting of these are also found in the Foreign Office Records.

<sup>7</sup> *e.g.* the series of "Confidential Miscellaneous" in the Foreign Office and the "Secret Letters" of the Admiralty collection.

the information required exists in a well-known work of reference such as the Navy or Army Lists, the Sessional Papers or Biographies<sup>1</sup> and Memoirs compiled by writers who have already placed all the original Records under requisition. At the same time after making full use of these printed sources there remains ample scope for intelligent researches to elucidate numerous historical subjects in regard of which our present information is erroneous or defective. But, as previously stated, until an adequate History of the Public Departments has been written it will not be possible for the historical student to make a satisfactory use of their Archives<sup>2</sup>.

<sup>1</sup> These, it is well known, are very complete on the naval, military, artistic and scientific sides, but singularly incomplete for the Diplomatic and Civil Services.

<sup>2</sup> The student should not fail to make full use of the special information on this subject in the official *Guide*, from which the facts contained in the preceding pages have been largely derived.

## THE BIBLIOGRAPHY OF ENGLISH OFFICIAL HISTORICAL DOCUMENTS.

THE Bibliography of legal Records, State Papers, and Departmental Records in official custody is a subject which presents considerable difficulties to the modern investigator. It has been frequently stated that the "Science of Archives" as cultivated on the Continent is practically unknown in this country<sup>1</sup>, and whatever qualifications this statement may require it is certain that the history of the national Archives has not been exhaustively treated in any printed work of reference. In fact our knowledge of the subject is to a great extent based upon official tradition which is only fitfully preserved in a multitude of casual inventories and disconnected precedents. The study of official documents has not yet reached a literary method of expression, and it is far behind the scientific development of the Continental "Archivwesen<sup>2</sup>," whilst such publications as exist deal almost exclusively with the Public Records of the mediaeval period<sup>3</sup>.

But apart from this science of Archives, the Bibliography of official documents includes a large number of Indexes, Calendars and Texts of various forms and varying merit, whilst certain works

<sup>1</sup> Gross, *Sources and Literature*, pp. 56, 57, and section 12; Giry, A., *Manuel de Diplomatique*, p. 39; cf. H. R. Tedder, "Proposal for a Bibliography of National History" in *Libr. Chron.* III. 185; F. Harrison, "A proposal for a new Historical Bibliography" in *Transactions of Royal Historical Society*, N. S. XI. and *Athenaeum*, 10 Sept. 1904, p. 349.

<sup>2</sup> For the Bibliography of this subject see G. Holtzinger, *Catechismus der Registratur und Archivkunde*, p. 117; F. von Loher, *Archivlehre*, p. 179; von Helfert, *Staatliches Archivwesen*, p. 32; G. Richou, *Traité Pratique des Archives Publiques* (1883); H. Bresslau, *op. cit.* I. 120; E. Lelong, in *Répertoire général du droit français, s.v.* "Archives de l'histoire de France"; C. A. Burkhardt, *Hand- und Address-Buch* (1887); *Revue Internationale des Archives*, p. 12, 1895-6; *Archivalische Zeitschrift*, &c.

<sup>3</sup> e.g. those examined by the Old Record Commission (1800-1837). Since this was written several scholarly notices have appeared in the prefaces to the mediaeval Calendars (Rolls Series), e.g. *Feudal Aids* (Vol. I.), *Patent Rolls* (1327), and *Charter Rolls* (Vol. I.).



of research, based upon original Records and embodying their contents to an appreciable extent, are deserving of at least as much attention as the historical memoir which can rank as a text.

In the first place, therefore, it will be desirable to classify the printed literature relating to our national Archives, and such a classification may be suggested on the following plan:

I. Introductory or Auxiliary to the Sources.

- (a) Guides, Handbooks (of MSS.).
- (b) Bibliographies.
- (c) Auxiliary Studies and General Works of Reference.

II. "Versions" of the Sources.

- (a) Inventories or descriptive Catalogues (of MSS.).
- (b) Calendars and Abstracts of Texts.
- (c) Translations of Texts.
- (d) Facsimiles and Transcripts of Texts.
- (e) Texts (Collections and Single Texts).
- (f) Excerpts from Texts (Source Books).

III. Modern Works.

- (a) Original Compositions (Individual, Co-operative, or Periodical), actually based on printed or inedited Archives.
- (b) Special Compilations based upon these Sources.

If we apply the above scheme of classification to the three great Judicial, Secretarial and Departmental collections of the Public Records it would be found that, although no special Bibliography is available for the mediaeval or later periods, a fairly complete knowledge of the existing printed sources for the former can be acquired from a single work<sup>1</sup>. The publication of the work referred to, which practically supersedes all previous compilations, renders any individual and partial attempt to indicate the chief characteristics of the literature of English official sources alike needless and unprofitable. Side by side with this indispensable work of reference we have the well-known and excellent official *Guide* to the Public Records<sup>2</sup> in the form of a descriptive inventory which contains many references to official Lists, besides printed Calendars and texts. To bring our knowledge of the literature dealing with the early Records

<sup>1</sup> Gross, *op. cit.* For the official sources of the Continental states, so far as they concern the student of English History, the well-known work of MM. Langlois and Stein already cited will be found invaluable, with special bibliographies such as M. Gabr. Monod's *Bibliographie de l'histoire de France*.

<sup>2</sup> *A Guide to the Public Records*, by S. R. Scargill-Bird (1908).

up-to-date, we should need to consult further the periodical Catalogues of H.M. Stationery Office and the announcements of recent publications by learned Societies<sup>1</sup> or by the University Presses<sup>2</sup> together with the information contained in certain Periodicals<sup>3</sup> and other familiar sources of bibliographical information.

For the subject-matter of the later legal Records and for that of the State Papers and Departmental Records we must rely solely upon these scattered bibliographical sources in default of any satisfactory *compendium*<sup>4</sup>. Even so a large proportion of our information must be derived from foreign publications, since the modern Archives are rarely consulted by English students except for professional or genealogical purposes<sup>5</sup>.

Several valuable lists of documents preserved in English Archives which especially concern the history of Continental countries have been published in France, Belgium, Holland, &c. in addition to the *American Guide* above referred to. To these must be added collections like those of Delpit, Langlois and Bémont based on special

<sup>1</sup> Some of these are Metropolitan Societies, like the Royal Historical, Selden, and Pipe Roll Societies, and the Society of Antiquaries, whilst others are local and for the most part county organizations. A list (incomplete) of these with their publications will be found in the annual "Year Book" and in the Catalogues of the British Museum (*Academies*) and Society of Antiquaries. For Articles only, see Gomme, *Index of Archaeological Papers* (1891, &c.).

<sup>2</sup> *e.g.* of Oxford and Cambridge, London (School of Economics), Manchester, Liverpool, &c., and of the American and Continental Universities in connexion especially with Academic theses.

<sup>3</sup> *e.g.* the English and American Historical Reviews, the *Athenaeum*, the *Revue Historique*, the *Deutsche Zeitschrift für Geschichtswissenschaft*, the *Jahresberichte der Geschichtswissenschaft*, &c.

<sup>4</sup> The older works of bibliographical reference for this subject such as Hardy's *Catalogue* and Edwards' *Libraries* are now out of date, whilst random lists of works containing texts of Records or State Papers like that printed in the 29th Report of the Deputy Keeper of the Public Records are of little value. Far more important contributions to the Bibliography of Archives will be found in Dr J. F. Jameson's article on the printed sources of American History, *A. H. R.* (1906), and the Presidential Address of Dr G. W. Prothero in the *Transactions* of the Royal Historical Society, N. S., Vol. XVII. The well-known work by Gardiner and Mullinger will be found useful for the later period, and there is a valuable sketch by Mrs L. C. Lomas of the materials for the period between 1603 and 1660 in the *Transactions* of the above Society, N. S. Vol. XVI.

A scientific *Guide* to the American sources has been already planned and is in preparation under the direction of Prof. Chas. Andrews, who has published an important Article on the subject in the *American Historical Review* (1905).

<sup>5</sup> To the periodical publications usually consulted for the earlier period should now be added the *Revue d'Histoire Diplomatique*, the *Archives des Missions Scientifiques et Littéraires*, the *Transactions* of the Russian Imperial Historical Society and some other foreign historical societies, and in England the publications of the Navy Records Society. The admirably conceived *Revue Internationale des Archives*, &c. unfortunately did not survive the first year of publication (1895—6).

researches in the English Archives for such subjects as diplomatic relations, social conditions, commercial intercourse, &c. For the modern period of European History these extraneous researches naturally become more numerous, and in fact there are few historical subjects of European importance or interest that would not be represented by researches of foreign scholars in the London Archives. These have been published abroad and must often be sought for in foreign Bibliographies. On the other hand a limited number of works compiled by foreign scholars will be found to exist which deal with subjects of purely English interest. These, especially if they should attain to the dignity of a translation, will take their place eventually side by side with the native authorities for the subject, and will appear accordingly in English Bibliographies. It may even be desirable to indicate the existence of similar conditions in the case of publications due to the national enterprise of students of the sister kingdoms and imperial Colonies, and thus we should be prepared to look for record publications concerning Wales to the national Society of that Principality and to the governments of Canada and Australia for the titles of extensive series of English State Papers published at Ottawa or Sydney.

The first object of a bibliographer must necessarily be the collection and arrangement of his sources. To describe, to criticize and even to reject individual works might be found a somewhat thankless task; nor is it altogether prudent to discover historical merit in obscure and ephemeral publications. The Bibliography itself may be intended as a guide to students, but its chief use will be to serve as a book-index for book-makers<sup>1</sup>. A purely conventional view of the object and scope of historical study is thus, in a manner, forced upon the attention of the Bibliographer, for he is scarcely justified in condemning or ignoring works which conform to the general acceptance of History as a branch of literature rather than as a science<sup>2</sup>.

The only escape from the dilemma of unprofitable controversy on the one hand and of unscientific procedure on the other, would seem to lie in the direction of a rigid classification which will relegate works of a certain character to their proper rank in the scale of historical research. This is a method to which no exception can

<sup>1</sup> This observation is intended as the enunciation of a simple though profound truth, and not as a reflexion on an industrious class of students.

<sup>2</sup> Some modern scholars are inclined to solve the difficulty by an arbitrary selection, whilst others prefer to include unscientific works for the purpose of denouncing them.

possibly be taken on technical grounds, whilst it is one that will not preclude the general reader or professional book-maker from reference to congenial authorities. In the case of a Bibliography of official historical documents the position is much simplified by the obvious fact that such a compilation cannot include any work which does not either deal directly with the subject-matter of these documents or reproduce their evidence to a material extent. The only real difficulty which arises here is due rather to defects or anomalies of earlier official custody than to any inconsistency in respect of the composition of official documents. That is to say, we may meet with official forms, possibly unique or of superior merit, in private custody which must be ignored for the purpose of the present enquiry. To relax this rule in individual cases would produce graver inconsistencies than those which it is sought to avoid, and therefore a consideration of these several missing units must be deferred for another occasion. Here then it only remains for us to distinguish accurately between the several denominations of printed works legitimately connected with the subject in hand. With this object in view we may perhaps have recourse to the provisional classification given above. This of course is a mere enumeration of the several types which may exist and can without difficulty be stated in the usual form of a Bibliography. If we follow the main outlines of that which is now in general use amongst historical scholars for the mediaeval period, namely the invaluable work of Professor Gross, we should find no difficulty in identifying the mediaeval Bibliographies, Lists, Indexes, Calendars, Texts and Original Compositions under their appropriate headings. Bibliography must stand as an essential title. Periodical Publications which are usually associated with works of reference must clearly be relegated to another position. It will be evident, however, that the methodology of the subject is represented only by certain treatises on the Public Records, for we are concerned here with the Science of Archives rather than with the study of History. On the other hand the auxiliary studies represented by Palaeography, Diplomatic and the rest are of great importance for our present purpose, but these have been dealt with elsewhere. Although it is sufficiently difficult to find any work of real utility dealing with the resources of the national Archives during the mediaeval period of documentary history, the difficulty is increased tenfold in the case of later times, and even if a comprehensive survey of the historical sources of this later period were at our disposal, it would not be found to include references to any works affording reliable information



respecting the origin and use of the State Papers and Departmental Records.

With the Printed Lists, Indexes and Calendars the case is somewhat different, the distribution of these works for the several periods being fairly uniform and the standard of quality in respect of modern works remarkably high. Although a clear distinction cannot always be made between a "List" and a "Calendar," even in the latest official series, the conventional distinction may be usefully preserved for the purpose of classification. A Calendar obviously differs from an Index in giving the epitome of a text or texts. In one sense therefore a Calendar is a text, or substituted text, and its use as an Index or List is merely due to the exigencies of research. In an ideal condition of Archive-economy, the Index or Inventory would answer every practical purpose and the Calendar might well be dispensed with, for as a substitute for a text (provided always that it is accessible) the latter is quite unsatisfactory. The contrast between our own practice herein and that of foreign countries is very noticeable and is scarcely to our advantage.

Calendars of Archives may be conveniently grouped in three series for legal Records, State Papers, and Departmental Records respectively, the several examples of which are familiar to every student. Of these some, as has been observed before, are properly Indexes, whilst, conversely, many Indexes and descriptive Catalogues are really Calendars. In certain cases, moreover, the so-called Calendar is actually a text.

Differing somewhat from the official Calendars, there are the private publications of learned societies and individual scholars. Here also we notice an increasing tendency to substitute for an actual text a version of the original MS. which is considered more suitable to the taste and requirements of a large number of unlearned subscribers. The conventional titles given above might well be utilized for this type of publication, but it would be found that many partial Lists or Abstracts are contained in private works and even in periodicals. The published Lists, Indexes or Calendars to be thus included under the head of Archives might therefore be distinguished as official<sup>1</sup> and

<sup>1</sup> For a list of ancient Indexes, &c., see *D. K. 24th* and *41st Reports*, but we know that the old race of officials was chary of making, or at least of publishing, Indexes from interested motives. Some of the early printed Indexes are still useful, e.g. Carte (*French Rolls*), Jones (*Memoranda Rolls*), whilst the *Indices Rerum* of the Record Commissioners, "Calendars" of Patent Rolls, &c., are often helpful. The early Reports of the Deputy Keeper are also a mine of information, though a general Index to the 40—51 Reports is badly needed. It is unnecessary either to describe or to praise the modern series of

private publications with further reference to date and form of publication, distinctions which may be conveniently indicated in the case of the remaining divisions of Record publications.

The above mentioned subjects are of a somewhat special character and admit of subdivision for the most part only in respect of their chronological order. The large class of texts, however, must be arranged according to the usual method employed in the case of general sources. One such classification will be chronological. Another will follow the recognized subjects of historical study, and these publications may again be conveniently divided according to their published form. But in the first place, the producing agency, as we have already seen, may be distinguished with some advantage. Thus we may recognize the agency of the State, of societies and other corporate bodies and of private scholars respectively. Abroad, however, the royal academies may really be regarded as State departments for this purpose, and the same remark applies to the national "Schools" of Archive-study at Rome.

The distinction is to our own national disadvantage, since in keeping with the non-recognition by the State of the British Academy and the British School at Rome, we have no departmental agencies such as the *Écoles des Chartes*, the *section Historique* or *Archives Diplomatiques* of the French War and Foreign Offices or the Royal Commissions of Italy and other countries. In the case of our own meagre State publications it is possible to distinguish further the several departmental agencies, whilst in the case of learned societies we notice, besides the usual distinction of central and local publications, the topographical scope of enterprises that are either regional, county or parochial in their local interest. These distinctions apply chiefly to the mediaeval period. In later times institutional subjects are more in evidence. A classification of these archival texts in point of date is concerned chiefly with a distinction between the ancient and modern series in respect of publication, and also between the mediaeval and modern periods of historical events.

Here we may easily notice distinctions, on the one hand between

"Indexes and Lists" devised by Sir Henry Maxwell Lyte. Besides these official publications and numerous MS. Indexes of both ancient and modern date, there are Indexes printed by private enterprise (Rye, Selby, Phillimore, &c.). The inventories prepared as the result of the "missions" of foreign scholars previously referred to, though didactic in their general purpose, form admirable Indexes to several collections of Records. Of a purely bibliographical character are the general Indexes to the contents of several important collections of printed texts, whilst from another point of view the Index must be carefully distinguished from the List of Records.

the style and quality of the earlier and later editions, and on the other hand between the attention given to the mediaeval and modern periods respectively. Perhaps we should come to the conclusion that, whilst the merit of the older Record editions cannot for a moment be compared with that of the modern editions of Chronicles and other unofficial MSS., their value is greatly enhanced by the paucity of modern texts, which, as we have seen, have been discontinued since the days of the old Record Commission in favour of Calendars. Moreover such texts as exist are largely excerpts due to local interest and are disfigured by the use of Record-type. This remark applies to the mediaeval period only, for the later legal Records are as yet an unexplored field. For modern times there is a considerable bulk of texts, but these in most cases are of secondary value. In fact whilst we have to be content with somewhat inadequate Calendars of the main series of State Papers, we have been favoured with an abundant supply of texts of memoirs, journals, and newsletters, selected chiefly for their sensational interest. It is true that Rymer is still available through the 17th century, but for the later period the selections are as unintelligent as for the earlier period the texts themselves are untrustworthy, whilst the old collections of printed State Papers, whether of official or semi-official origin, can scarcely be regarded as working texts. When we come to the 18th century we find a diminishing supply of texts with a rapidly increasing bulk of State Documents. It is true that we have various extensive editions of Despatches, notably those of Marlborough, Nelson and Wellington, but the originals are not all in official custody<sup>1</sup>. Moreover more than one of these editions are composed of arbitrary selections from a great mass of papers and do not in any way represent the nature or value of the collections with which they deal. It is impossible to review here the several series of existing texts of official documents, but if we could do so, we should be reluctantly forced to conclude that in the case of the legal Records, the State Papers and Departmental Records alike, the existing texts are not only generally inadequate but also incomplete; neither is there any prospect of an immediate improvement in the existing conditions.

In our classification of these texts it will be useful to indicate the chief historical subjects that may be materially illustrated by this class of evidence. For the mediaeval period these headings

<sup>1</sup> In the case of the editions of the Chatham and Cornwallis correspondence a similar objection can now only partially apply.

are already made, but for the official documents of a later period some new headings must be introduced. Specimens have been given in an Appendix. Again it may be noted that, although every text which has not been practically superseded should find a place in this bibliographical section, care must be taken to distinguish between texts of merit in respect of scholarship and those of a serviceable character. It is even more necessary to make a distinction between completed texts and editions which present a garbled version of the original text or merely selected passages. Finally it will be found that numerous texts, often of considerable value, are published in various collections or periodicals, and here too the form of publication should be carefully indicated, with a note of any reissue of the document in a permanent form.

The class of original compositions based directly or indirectly, ostensibly or actually, upon documentary texts, manuscript or printed, might appear to be an even more extensive one than the preceding. Its extent, however, must for the present really depend upon the process of selection which may be employed. It is perfectly clear that in very many instances a general claim to the merit of original research has become almost a meaningless formula. But whatever its justification may be in respect of historical sources at large, the mere fact of the use or reproduction of specific historical documents can be easily decided. There are in fact original works which traverse the evidence of documents almost as closely as an official calendar, and there are others which either skilfully assimilate this evidence or grossly pervert its meaning. The omission of such reference can at least be positively demonstrated, and for the present this must perhaps serve as the only conclusive test of the scope of such original historical compositions. For this reason alone it would certainly be desirable that every work which claims to be based upon official documents should be furnished with a table of such documents in addition to the usual list of authorities, for hitherto this practice has not been generally adopted.

In the case of these original works, a useful distinction may perhaps be made between those of early and recent date respectively. The former class is characterized by the large number of documents printed in the body of the work or in the footnotes, and the latter by a more critical and judicious use of this official evidence, the actual texts being given, when desirable, in an appendix. It is moreover an interesting fact that in certain cases the texts of documents, which cannot now be identified, have been preserved

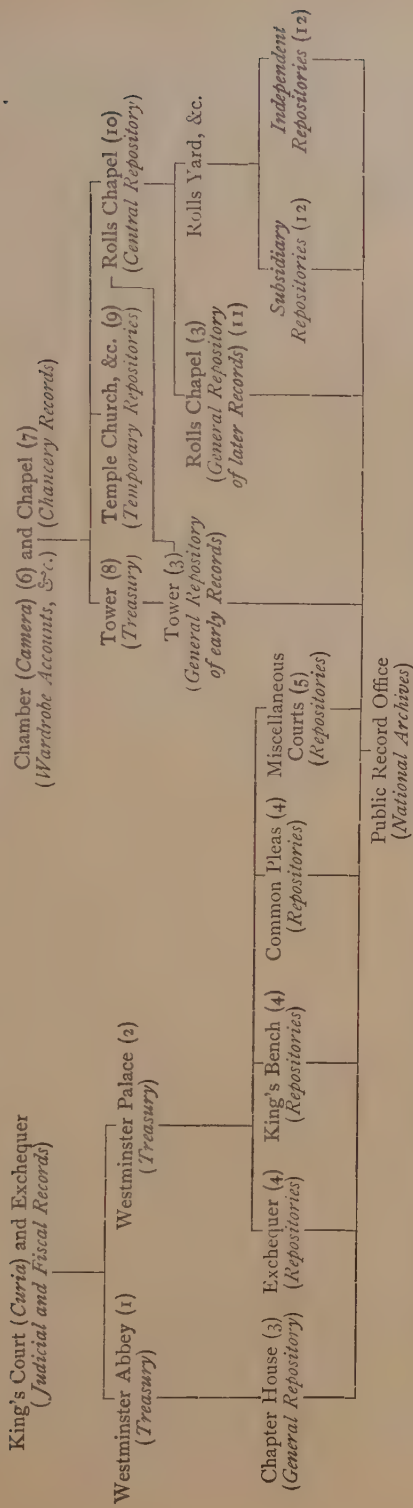


in original publications of an early date. It will be obvious that originality of thought or design may be recognized not only in conventional historical narratives, instructive treatises, or occasional essays, but also in the preparation of the Texts themselves, in the selection or presentment thereof, and in their translation. This view of the subject will certainly extend to works dealing with the auxiliary studies of history and historical methodology, although in accordance with the conventional system of bibliographical classification we have placed these several forms of historical publications under other heads.

In this section of our classification it is also possible to enumerate certain subjects that appear to have attracted the special attention of historical writers in connexion with the mediaeval and modern periods respectively. The list could doubtless be extended without much difficulty, but it will serve to remind us of an instructive phenomenon of our historical literature. The unequal distribution of historical research is very apparent from such a classification of its results and it is still more obvious to those who have the charge of archives. Why so much has been written on certain favourite subjects, and so little on others that are obscure or uninviting, can easily be explained. These oft chosen subjects, it would be found, appeal to our political or religious temperament or to our imagination. Certain constitutional theories must be maintained, and so Magna Carta, the Reformation, the Great Rebellion and the Revolution have their votaries. Commercial and agrarian systems must be expounded, and so we dwell lovingly on Domesday Book, the Villeins' insurrections, the Gild Ordinances, and the Navigation Laws. Great disasters like the Black Death, the Plague and the Fire of London, and conflicts like the Spanish Armada, the battles of Trafalgar and Waterloo, and the Napoleonic invasion appeal to our sense of national pride or security. Doubtless many readable books and a few valuable contributions to learning have resulted from this trivial round of historical enquiry, but the sum of our real knowledge of the national history is not largely increased by this restriction of our investigations.

# APPENDIX I.

A. TABLE SHOWING THE EVOLUTION OF THE PUBLIC RECORD OFFICE.



- (1) The ancient treasury in the cloisters containing chiefly Regalia, Relics and Plate.
- (2) The working treasury of the Exchequer of Receipt formerly at Winchester.
- (3) One of the three modern Record Offices which preceded the Public Record Office.
- (4) In Westminster Palace and precincts. These were also termed "treasuries" in a later period.
- (5) In unoccupied rooms of the Palace: departmental Records being preserved in branch offices in the Temple, &c.

- (6) The ante-chamber, treasury and secretariat of the itinerant Court.
- (7) The establishment of the Chapel followed the king but has left no traces of the custody of Records.
- (8) In the White Tower and later in the Wakefield Tower.
- (9) Presumably in the Crypt.
- (10) In the House and Chapel of the Converts and equally in the houses of the Chancery clerks in the vicinity.
- (11) In the body of the Chapel and in a chamber in the roof.
- (12) See below, p. 114.

B. METROPOLITAN RECORD REPOSITORIES<sup>1</sup>

(showing the distribution of the Records before the Public Record Office Act of 1838).

**Westminster.**i. Treasuries<sup>2</sup>.

- (a) The Abbey Treasury (Wardrobe, Exchequer, King's Court).
- (b) The Palace Treasury (Exchequer and King's Court).

ii. General Repository<sup>3</sup>. The Chapter House (Abbey).iii. Repositories of the Court of Exchequer<sup>4</sup>.

## (a) Exchequer of Account, including :

Pipe office [Lincoln's Inn].  
 Lease office [Gray's Inn].  
 King's Remembrancer [Temple].  
 Lord Treasurer's Remembrancer [Temple].  
 Foreign Apposer [Somerset House].  
 Surveyor of Greenwax [Somerset House].  
 Auditors of the Land Revenue.  
 Surveyor-General of Crown Lands.  
 Auditors of the Imprest.  
 Augmentation office.  
 First Fruits and Tenths office [Temple].

(b) Exchequer of Receipt<sup>5</sup>, including :

Auditors.  
 Tellers.  
 Pells.  
 Tally Court.

<sup>1</sup> This list is compiled from the Reports of the Parliamentary Committees and Record Commissioners in 1800, but although it may sufficiently indicate the devolution of the ancient Treasuries of Records, it is by no means complete. For further particulars see the 2nd and following Reports of the Deputy Keeper (*e.g.* 20th Report, Appx. p. 191). It is scarcely necessary to notice the intermediate Repositories between the Act of 1838 and the final transfer of the Records to the Repository in Fetter Lane.

<sup>2</sup> Including the ancient treasuries within the Abbey, that of the Exchequer adjoining the Palace and the treasuries of the Common Law Courts within the Palace itself.

<sup>3</sup> This was the virtual successor of the Abbey and Exchequer Treasuries.

<sup>4</sup> The address in brackets indicates the position of the working Department where usually the bulk of its Records were also preserved. In the case of the Departments to which no such indication is appended, the Records appear to have been preserved at Westminster. From 1800 there was a tendency towards centralization in temporary repositories such as Somerset House, Carlton House, &c. instead of the Inns of Court, &c.

<sup>5</sup> The Records of this Court formed the bulk of those deposited in the Exchequer Treasury in later times. For details of their distribution, cf. *D. K. 7th Report*, Appx. ii. p. 3.

- (c) Exchequer of Pleas<sup>1</sup>, including:  
 Plea Office [Lincoln's Inn].  
 Clerk of the Errors, &c. [Sergeants' Inn, &c.].
- iv. Repositories of the Court of King's Bench<sup>2</sup>:  
 King's Bench "Treasury."  
 Custos Brevium [Temple].  
 King's Bench Office [Temple].  
 Crown Office [Temple].
- v. Repositories of the Court of Common Pleas<sup>3</sup>:  
 Common Pleas Treasury.  
 Clerk of the Warrants, &c. [Temple].  
 Custos Brevium [Temple].  
 Chirographer's Office [Temple].
- vi. Repositories of Special Courts (derived from the King's Council)<sup>4</sup>:  
 Court of Requests.  
 Star Chamber.  
 Court of Wards and Liveries.
- vii. Repositories of Household Courts<sup>5</sup>:  
 Marshalsea [Southwark].
- viii. Repositories of Honour Courts<sup>6</sup>:

<sup>1</sup> The Records were chiefly deposited in Westminster Hall.

<sup>2</sup> Several other departments of the King's Bench were not situated at Westminster and their Records were neither deposited nor transmitted there (see *D. K. 20th Report*, Appx. 191 sqq.). The Welsh Records were preserved locally till 1854 (see below, Appendix I. c).

<sup>3</sup> The following departments of the Common Pleas were not situated at Westminster though their Records were chiefly deposited or transmitted there:

Clerk of the Essoins [Temple].  
 Reversals of Outlawry Office [Temple].  
 Filacer [Temple].  
 King's Silver Office [Temple].  
 Alienation Office [Temple].  
 Return Office [Temple].

<sup>4</sup> These were akin to the Chancery in point of procedure and of much later date than the other Courts of Law at Westminster. Their position here is probably connected with the vicinity of the palace of Whitehall. It is well known that the Decrees of the Star Chamber were last heard of in Smithfield where records are occasionally found in the earlier period. The Records of the Court of the Lord President of Wales and the Marches and those of the Council of the North and of the Court of High Commission were probably destroyed during the Commonwealth.

<sup>5</sup> The *Placita Aulae* dating from the 13th century are the best known Records of this court (cf. *Fleta*, II. 14). The following departments of the Household were not situated normally at Westminster nor were their Records deposited there:

Lord Chamberlain's Office [St James's Palace].  
 Lord Steward's Office [St James's Palace].

<sup>6</sup> The Records of the Duchy of Lancaster were at one time deposited at Westminster. The Records of Chester were preserved locally like other Welsh Records and those of the Duchy of Cornwall. The Palatinate of Durham was not vested in the Crown till 1832.



**Temple.** See above Nos. iii., iv., v., and below under Rolls Chapel.

**Tower of London.**

- i. Treasury (Wardrobe and Chancery)<sup>1</sup>.
- ii. General Repository (Early Chancery Rolls, &c.).

**Rolls Chapel<sup>2</sup>.**

- i. General Repository<sup>3</sup>.
- ii. Subsidiary Repositories<sup>4</sup>, including :
  - Petty Bag Office [Rolls Yard].
  - Six Clerks Office [Rolls Yard].
  - Inrolment Office [Chancery Lane].
- iii. Independent Repositories<sup>5</sup>, including :
  - Masters in Chancery [Symonds' Inn, &c.].
  - Prothonotary's Office [Temple].
  - Hanaper Office [Chancery Lane].
  - Cursitor's Office [Chancery Lane].
  - Clerk of the Crown [Rolls Yard].
  - Subpoena Office [Rolls Yard].
  - Clerk of the Custodies [Temple].
  - „ „ Dispensations [Temple].
  - „ „ Letters Patent [Adelphi].
  - Bankrupts' Patentee Office [Lincoln's Inn].
  - Inrolment Office in Bankruptcy [Chancery Lane].
  - Examiner's Office [Rolls Yard].
  - Register of Affidavits [Symonds' Inn].
  - Report Office [Chancery Lane].
  - Accountant General's Office [Chancery Lane].
  - Crown Office [Clifford's Inn].

<sup>1</sup> Apparently in Caesar's Tower before 1360 and after that date in the Wakefield Tower. The Ordnance Records were preserved here with those of the Great Wardrobe, but the Records of the Privy Seal Office were preserved elsewhere. The Records relating to the garrison and prisoners are still preserved in the Constable's custody, but those relating to the Liberty have been apparently dispersed. Cf. J. Bayley, *History of the Tower of London*, 11. Appx., War Office, Ordnance, Miscellanea, 1073, and *D. K. 30th Report*, Appx., 313.

<sup>2</sup> The Records were preserved partly in the body of the Chapel and partly in a room under the roof. Some were found in the Rolls House itself in 1717.

<sup>3</sup> This was the real nucleus of the Public Record Office subsequent to the Act of 1838, the General Repositories at the Tower and Westminster being regarded as branch offices.

<sup>4</sup> The departmental Records of the Chancery were chiefly preserved in private or official buildings in the neighbourhood of Chancery Lane, and in the case of the offices mentioned below the Records were regularly transmitted to the Rolls Chapel or direct to the Tower by warrant of the Master of the Rolls.

<sup>5</sup> In the case of other departments, mentioned below, the Records were not transmitted and an independent custody thereof was claimed by the clerks.

C. REPOSITORIES OF WELSH RECORDS<sup>1</sup>.

- i. *Chester Circuit.* Chester Castle.
  - \*Montgomery.
  - Welshpool.
  - \*Denbigh.
  - \*Wrexham.
  - Ruthin.
- ii. *North Wales Circuit.* Caernarvon.
  - Dolgelly.
- iii. *Brecknock Circuit.* Brecknock.
  - Presteign.
  - Cardiff.
- iv. *Caermarthen Circuit.* Caermarthen.
  - Cardigan.
  - Haverfordwest.

## D. EXISTING REPOSITORIES OF OFFICIAL RECORDS.

Many ancient and valuable Records continued to be preserved in departmental repositories after the passing of the Public Record Office Act of 1838<sup>2</sup>. Of these, however, the greater part have now been deposited in the Public Record office, including the residue of the outstanding judicial Records<sup>3</sup> and

<sup>1</sup> These repositories have been practically disused except for the custody of the normal "Local Records" (see above, p. 22) since the removal of the Welsh Records to London in 1854. The repositories marked with an asterisk had been virtually abandoned before the date of that removal (*Deputy Keeper's 8th Report*, Appx. i. p. 36). It should be noted that the Records were not entirely preserved in these castles, or shirehalls, or churches (as the case might be), but were apparently preserved in part in the private dwellings of their official custodians. As in the case of Scotland or of Ireland (above, p. 22) certain native Records were doubtless conveyed to London during the English occupation. The Records of the "Council of Wales" formerly preserved at Ludlow have now disappeared (C. A. J. Skeel, *The Council in the Marches of Wales*, p. vii sqq.); but even in the reign of Queen Elizabeth they seem to have been carelessly preserved (*S. P. Dom. Eliz.* Appx. xxvii. 95). The names of the patentees holding the office of clerk of the Council of Wales and the Marches after the Restoration will be found in the Signet Office Docquet Book, April 1662, a clue which might be followed up with advantage. The English Records relating to Wales form part of the general series of Public Records, and others may be found in the Land Revenue collection recently transferred to the Public Record Office. There are also originals or transcripts in private collections and diplomatic correspondence in foreign Archives; cf. E. Owen, *Catalogue of MSS. relating to Wales in the British Museum*.

<sup>2</sup> Cf. *D. K. 25th Report*, p. xxi.

<sup>3</sup> The outstanding Records of the Chancery, the Courts of King's Bench, Common Pleas and Exchequer, and the Admiralty and Probate Registries, together with some fragmentary proceedings of the old Palace Courts and the valuable Records of the Palatinate of Durham.

the ancient muniments acquired by the Ecclesiastical Commissioners<sup>1</sup>, the former Commissioners of Greenwich Hospital<sup>1</sup>, and the Commissioners of Woods and Forests as the successors of the Auditors of Land Revenues (Land Revenue Records)<sup>2</sup>. However some actual Records, connected with or continued from the series in official custody, are still preserved in certain repositories situated both in London and in the provinces. The most important of these are contained in the following list, which does not, of course, include collections of State Papers or Departmental Records (which will be treated in the present volume under separate headings), neither does it include such Records as have been palpably abandoned by the Crown itself, and which, therefore, no longer fall within the category of official Records<sup>3</sup>.

The same exception must be held to apply to the large class of so-called "Local Records," which a strict interpretation of the Public Record Office Act of 1838 and of the complementary Order in Council of March 5, 1852, supplemented by the specific directions of certain recent enactments, might logically affect<sup>4</sup>. As stated above (p. 22), however, the inclusion of these so-called "Records"<sup>5</sup> in any existing scheme of Record classification cannot be justified on historical or scientific grounds, however desirable this consummation might appear on those of public policy or national sentiment. For the purpose of the present survey these "Local Records" will be considered as private or unofficial Records, and as such they must be reserved for treatment on another occasion.

<sup>1</sup> These Records consist of the manorial evidences which came into the possession of the Commissioners when they took over the administration of certain ancient estates. It must be observed, however, that these Records have been merely "deposited" in the custody of the Master of the Rolls, although they form part of a series of manorial evidences of which a large proportion was already preserved amongst the Public Records.

<sup>2</sup> These include apparently Exchequer Records which had probably been used for reference when the Auditors' department was situated in Westminster Palace. For Exchequer Records left behind at Westminster, cf. *D. K. 56th Report*, p. 5.

<sup>3</sup> *e.g.* the Proceedings of the President and Council in the Marches of Wales (cf. *13th Rep. Hist. MSS. Commn.* Appx. iv. pp. 247—282), and the Records of dissolved corporations assigned to public institutions or local repositories by the Treasury, the Local Government Board and the Charity Commissioners (*e.g.* Records of the South Sea Company, presented by the Treasury to the British Museum). For the Records of similar bodies in official custody, cf. p. 126.

<sup>4</sup> *e.g.* the Births, Marriages and Deaths Registration Act (1874), the Municipal Corporations Act (1883) and the Local Government Act (1894). Under these and preceding Acts, the official nature of such documents as Registers of Births, &c., Inclosure Awards and Tithe Maps and Legislative exhibits seems to have been pretty clearly established. In another aspect, moreover, the supervision of such Local Records is vested by these recent Acts in a delegated authority (Local Government Board, Charity Commissioners, Board of Agriculture, County Council), thus dispensing with the powers given under the Act of 1838 and the Order in Council of 1852.

<sup>5</sup> Most of these are briefly described in the Report of the Treasury Committee on Local Records (1902). As to Parish Registers, cf. also *D. K. 18th—20th Reports*.

E. LIST OF EXISTING REPOSITORIES OF OFFICIAL RECORDS,  
ADDITIONAL TO THE PUBLIC RECORD OFFICE<sup>1</sup>.

(a) *Central.*

Royal Courts of Justice<sup>2</sup>.  
Houses of Parliament<sup>3</sup>.  
Somerset House (General Registry)<sup>4</sup>.  
Board of Trade (Patent Office)<sup>5</sup>.  
Board of Agriculture<sup>6</sup>.  
Land Registry Office<sup>7</sup>.  
Ecclesiastical Commission<sup>8</sup>.  
Queen Anne's Bounty Office.  
Privy Council Office<sup>9</sup>.

(b) *Local.*

Clerks of Assizes<sup>10</sup>.  
Clerks of the Peace<sup>11</sup>.

<sup>1</sup> This list, which is probably by no means exhaustive, only includes such typical Records as may be closely compared with the legal Records in the custody of the Master of the Rolls. Departmental Records are excluded, and will be referred to elsewhere. This list is compiled from the Deputy Keeper's Reports and the official *Guide*.

<sup>2</sup> Including the current Records of the Admiralty Registry and the King's Remembrancer's Office. Important Crown Office Records were transferred as recently as 1906. For the present distribution of the judicial Records, see the official *Guide*, p. 296.

<sup>3</sup> It is not suggested that the Records preserved in the Houses of Parliament are the property of the Crown in the sense of the Act of 1838 or the Order in Council of 1852. From a historical point of view, however, these are legal Records in the truest sense.

<sup>4</sup> Wills and Registers.

<sup>5</sup> Legal Records periodically transmitted to the Public Record Office.

<sup>6</sup> Tithe Maps, &c.

<sup>7</sup> Enrolments of Titles, &c. to land in Middlesex.

<sup>8</sup> Some early Records still retained.

<sup>9</sup> Registers and State Papers. Those prior to the year 1600 have been recently transmitted to the Public Record Office.

<sup>10</sup> From the analogy of the delivery of the Records of the Justices of Assize into the Treasury and from the directions contained in 9 Edw. III, (i) c. 5, and 11 Hen. IV, c. 3 we might certainly conclude that these are Records under the Act of 1838 (cf. *D. K. 25th Report*, p. xxvi). The Records in their custody seem to have shared the fate of those preserved in Wales. We may notice too that the Records of the special commissions for carrying out the provisions of the Statute of Labourers were ordered to be delivered up in the same way as other Plea Rolls, and some of these are still in fact preserved amongst the Assize Rolls. Yet these pleadings must be regarded as closely analogous to the ordinary business of the later Quarter Sessions. The Passes issued to Labourers under the Statute of 1388 have disappeared, but some seals are still preserved in the British Museum.

<sup>11</sup> Although Justices of the Peace might be regarded as amenable to the above rule their acts were chiefly administrative. Moreover, a special custodian was ultimately appointed in this case (*Custos Rotulorum*), and possibly such local appointments were made as early as the reign of Henry III. For these local judicial records, cf. *Report of the Committee on Local Records*, p. 7, and *Athenaeum*, 5 Oct. 1902. Their historical value has been amply proved by the contemporary researches of Mr and Mrs Sidney Webb.



Duchy of Lancaster<sup>1</sup>.

Duchy of Cornwall<sup>1</sup>.

Palatinate of Ely<sup>2</sup>.

#### F. CHRONOLOGY OF THE CUSTODY OF OFFICIAL RECORDS.

- [1086—1189]. Royal Treasury at Winchester containing Records<sup>3</sup>.  
 [1154]—1854. Royal Treasury at Westminster containing Records<sup>4</sup>.  
 [1177]—1230. Notices of Records in official custody<sup>5</sup>.  
 1185—1291. Treasury in the Temple Church containing Treasure and Records<sup>6</sup>.  
 1200—1305. Tower of London used as a Treasury and Wardrobe<sup>7</sup>.  
 1305—1318. Tower of London used as a Treasury of Records<sup>8</sup>.  
 1232. Foundation of the Rolls House and Chapel<sup>9</sup>.  
 1286—1377. Offices of Master of the Rolls and Keeper of the House of Converts usually held together<sup>10</sup>.  
 1377. The above offices united, including the Keepership of the Tower Records<sup>11</sup>.  
 1483—1603. The offices of Master of the Rolls and Keeper of the Tower Records distinguished<sup>12</sup>.  
 1320. Royal precept for the arrangement of the Records in the Treasuries of Westminster and the Tower of London<sup>13</sup>.  
 1322. Commission to arrange the Records at Pontefract, Tutbury, and in the Tower of London and House of the Friars Preachers<sup>14</sup>.  
 1322. Commission to Walter de Stapeldon to arrange the Records in the Treasury and elsewhere<sup>15</sup>.  
 1323—1325. Ordinances of the Exchequer referring to the Records<sup>16</sup>.  
 [1360—1362]. Transfer of the Chancery Records from the White Tower to the Wakefield Tower<sup>17</sup>.

<sup>1</sup> Some Records not yet transferred. For an early notice of Records at Clitheroe Castle, see *Chanc. Inq. P. M.* 4 Ed. II. No. 51. Records of the honour of "Knarsboro" were transferred in 1900. Nothing is known as to the fate of the Stannary Court Records at Bodmin after the transfer of its jurisdiction to the County Court at Truro.

<sup>2</sup> A large collection of Records, included under the Act of 1838, not transferred to the Public Record Office.

<sup>3</sup> J. H. Round in *Antiquary*, June—July, 1887.

<sup>4</sup> Hall, *Antiquities of the Exchequer*, p. 11 sqq.

<sup>5</sup> *Dialogus de Scaccario*, i. xiv. *Red Book of the Exchequer* (Rolls), p. xxi sqq.

<sup>6</sup> Hall, *Receipt Roll of the Exchequer* (31 Henry II), p. vi. *Close Roll* 20 Ed. I, m. 13 d.

<sup>7</sup> Above, p. 18 sq.

<sup>8</sup> *Ibid.*

<sup>9</sup> W. J. Hardy in *Midd. N. and Q.* II. 47 sq. *D. K. 57th Report*.

<sup>10</sup> *Ibid.* pp. 55, 56. *D. K. 57th Report*.

<sup>11</sup> Pat. 51 Ed. III, m. 20.

<sup>12</sup> Edwards' *Hist. of Libraries*, p. 229. *Camden Miscellany*, x. vii.

<sup>13</sup> Record Commission, *Papers and Documents*, p. 413.

<sup>14</sup> *Ibid.*

<sup>15</sup> Palgrave, *Kalendars and Inventories*, Vol. I. p. 1.

<sup>16</sup> *Red Book of the Exchequer* (Rolls), pp. 848—969.

<sup>17</sup> *Close Roll* 34 Ed. III, Pt. I, m. 15 and 33; cf. 36 Ed. III, m. 25.

1372. Petition of the Commons for access to the Records<sup>1</sup>.  
 [1565—1571]. [Petition of the Judges to the Crown for the better preservation of the Records at Westminster]<sup>2</sup>.  
 1603. Office of Keeper of the Rolls of Chancery in the Tower subordinated to that of the Master of the Rolls<sup>3</sup>.  
 1610. Agarde's *Compendium* completed<sup>4</sup>.  
 1617. Scheme for a "General Record Office"<sup>5</sup>.  
 1662. Prynne's Report on the Tower Records<sup>6</sup>.  
 1693—1717. Publication of Rymer's *Foedera*.  
 1703—1728. House of Lords' Reports on the Public Records<sup>7</sup>.  
 1731. Act for Records to be written in English only<sup>8</sup>.  
 1732. Report of the House of Commons on the Public Records<sup>9</sup>.  
 1764—1800. Commission for "methodizing" the Public Records<sup>10</sup>.  
 1783. Publication of Domesday Book.  
 1772. Report of the House of Commons on the Public Records<sup>11</sup>.  
 1772—1832. Occasional removals of Records for greater safety<sup>12</sup>.  
 1788—1793. Reports of House of Commons on Approaches to Westminster Hall<sup>13</sup>.  
 1800—1837. Reports and Publications of the Commissioners of Public Records<sup>14</sup>.  
 1836. Report of House of Commons on the above Commission<sup>15</sup>.  
 1838. Public Record Office Act<sup>16</sup>.  
 1838—1854. Provisional accommodation for and supervision of Public Records under above Act<sup>17</sup>.  
 1840. House of Lords' Committee to enquire into the sale and destruction of Exchequer Records.  
 1852. Order in Council (5 Mar.) for the supervision of Public Records by the Master of the Rolls.  
 1852. Amalgamation of the State Paper and Public Record Offices.

<sup>1</sup> *Rot. Parl.* II. 314.

<sup>2</sup> For this traditional representation, cf. Ayloffe's *Calendars*, xxviii.

<sup>3</sup> *Camden Miscellany*, x. vii.

<sup>4</sup> *Ed. Powell, Repertorie of Records* (1631).

<sup>5</sup> *S. P. Dom. Chas. I.* cxlvi. 57.

<sup>6</sup> *S. P. Dom. Chas. II.* lxvi. 154 and *Brevia Parliamentaria* (epist. dedicat.).

<sup>7</sup> *The State of the Public Records of the Kingdom* (Lond. 1723), *Lords' Journals*, 1703—1728.

<sup>8</sup> *Parl. Hist.* VIII. 861.

<sup>9</sup> *H. C. Reports*, Vol. I. p. 508.

<sup>10</sup> Above, p. 41.

<sup>11</sup> *Commons Journals*, xxxiii. 775.

<sup>12</sup> *H. C. Reports*, *passim*; *Commons Journals*, xxxiii. 791.

<sup>13</sup> *Commons Journals*, XLVIII. 848.

<sup>14</sup> Commissions were issued in the years 1800, 1806, 1817, 1821, 1825 and 1831. In addition to the Annual Reports, detailed Reports were issued in 1800, 1803, 1812, 1819 and 1837.

<sup>15</sup> *Parl. Papers*, 1836, Vol. XVI.

<sup>16</sup> 1 & 2 Vic. c. 94.

<sup>17</sup> *D. K. Reports*, s. a.

1854. Completion of the Public Record Office Repository.  
 1854—1862. Transmissions of Records and State Papers from other Repositories<sup>1</sup>.  
 1862—1908. Transmissions of Departmental Records<sup>2</sup>.  
 1840—1857. Calendars of State Papers instituted by Mr Hobhouse.  
 1857. Rolls Series of "Chronicles and Memorials" instituted by Lord Romilly.  
 1873—1879. Judicature Acts remodelling the procedure and Records of the Courts of Justice.  
 1877—1898. Public Record Office Acts for the disposal of valueless documents<sup>3</sup>.  
 1892. New Series of Record Calendars instituted by Sir H. Maxwell Lyte.  
 1895—1900. The Rolls House and Chapel pulled down and the new frontage of the Public Record Office erected on their site<sup>4</sup>.  
 1902. Report of Treasury Committee on Local Records<sup>5</sup>.

<sup>1</sup> *D. K. Reports, s. a.*

<sup>2</sup> *Ibid.*

<sup>3</sup> 40 & 41 Vic. c. 55, amended by 61 & 62 Vic. c. 12.

<sup>4</sup> *D. K. 57th Report.*

<sup>5</sup> Sess. Papers C. d. 1335.

## APPENDIX II.

### CHRONOLOGY OF THE CUSTODY OF THE STATE PAPERS.

1536. Act defining the precincts of the Palace of Westminster (28 Hen. VIII, c. 12).
1544. Entries of the receipt of State Papers cease to be made in the records of the Treasury of the Receipt of the Exchequer.
- [1545]. Inventory [by William Honnyng] of State Papers in the "Study" at Westminster.
- 1578—1603. Traditional establishment of a State Paper Office at Whitehall, and appointment of Dr Thomas Wilson and Dr James successively as Keepers of the Papers of State.
1603. Grant of an Annuity of £50 to Sir Thomas Lake in consideration of his custody of the Papers of State.
1610. Grant of the Office of Keeper of the Papers of State to Levinus Munck and Thomas Wilson.
1614. Further grant of the same office to Thomas Wilson and Ambrose Randolph.
- 1614—1618. Construction of a repository for the State Papers at Whitehall.
1619. Destruction of certain Papers by a fire at Whitehall.
1619. Removal of the State Papers to the Whitehall Gateway.
1629. Grant of the Office of Keeper to Ambrose Randolph, on the death of Sir Thomas Wilson.
1661. Grant of the Office of Keeper to Sir Joseph Williamson.
1702. Grant of the Office of Keeper to John Tucker.
1706. John Tucker's Report on the condition of the Papers in the custody of Sir Joseph Williamson.
1706. Removal of the earlier State Papers to the "Cock-pit" in Whitehall.
- 1725—1800. Appointment of Collectors and Transmitters of the Papers.
- 1756—1764. Removal of the Whitehall Gateway and discovery of old Papers there.
- 1764—1800. Appointment of Methodizers of the Papers and Records.
1786. The Collector and Transmitter's office removed to Scotland Yard.



1792. Appointment of John Bruce as Keeper.
1800. First Report of the Record Commissioners and re-organization of the State Paper Office.
1819. Removal of the Transmitter's Papers from Scotland Yard to Great George Street.
- 1825—1852. State Paper Commission (Publications of the).
1833. A new Paper Office built in St James's Park.
- 1848—1852. The Paper Office constituted a "Branch State Paper Office" under the superintendence of the Master of the Rolls.
1862. Removal of the State Papers to the Public Record Office.
- 1894—1908. Re-arrangement of the State Papers (Domestic, Foreign and Colonial) and publication of revised Lists under the supervision of Sir Henry Maxwell Lyte.

## APPENDIX III.

A. LIST OF PUBLIC DEPARTMENTS WHOSE HISTORICAL RECORDS (INCLUDING THOSE OF ABOLISHED OFFICES UNDER THEIR JURISDICTION) HAVE BEEN MAINLY TRANSFERRED TO THE PUBLIC RECORD OFFICE<sup>1</sup>.

### Admiralty.

1. Secretary's Department<sup>2</sup>.
2. Accountant General's Department<sup>3</sup>:  
Navy Board, Treasurer's Office, Bill Office, Imprest Office, Comptroller's Office, Ticket Office, Allotment Branch.
3. Surveyor's Department<sup>4</sup>.
4. Victualling Department<sup>5</sup>.
5. Storekeeper-General's Office<sup>4</sup>.
6. Transport Department<sup>5</sup>.
7. Medical Department<sup>5</sup>.
8. Greenwich Hospital (and Chatham Chest).
9. Royal Marine Office<sup>6</sup>.

<sup>1</sup> The information contained in this list is derived chiefly from the early Reports of the Deputy Keeper of the Public Records with some additional information gleaned from official Handbooks, Parliamentary Papers, Archaeological works and other printed sources. It should however be supplemented by the Official Lists which may be consulted by students within certain limits at the Archives. Legal records such as those of the Privy Seal and Signet Offices are not included in this list, which also omits several departmental collections of small historical interest (cf. above, p. 70).

<sup>2</sup> Including the Hydrographer's Office which was also concerned with Logs.

<sup>3</sup> Established in 1833 to supersede the old departments of the Comptroller and Treasurer known respectively as the Navy Office and Navy Pay Office, including the several branches concerned with Tickets, Wages, Imprests, Bills, Allotments, Wills, &c.

<sup>4</sup> Associated with the Navy Office as an administrative department in distinction to the Navy Pay Office.

<sup>5</sup> These offices were administered by distinct Boards. The Medical Department, formerly the Sick and Hurt Board, was administered later by the Transport Board, and then by a Physician General. The first Transport Board was constituted in 1690 under an Order in Council. The Commissioners acted under a Patent from 1710 to 1724, when the Board was dissolved and its business conducted by the Navy Board, Victualling Board and Ordnance. It was re-established in 1795 and took over the management of Prisoners of War and of the Sick and Hurt during the Napoleonic wars. With the exception of one or two volumes none of the Records of the old Board (1690—1724) appear to have survived.

<sup>6</sup> Including the Records of the central office in distinction to the divisional headquarters.

**Agriculture, Board of<sup>1</sup>.**

Ordnance, Survey Records.

**Audit Office (Exchequer and Audit Office).**

Exchequer of Receipt (1834—1867).

Commissioners for Auditing Public Accounts.

Colonial Audit Office.

Comptrollers of Army Accounts (1711—1834).

**Chamberlain (Lord), *see* Household (Royal).****Charity Commission<sup>2</sup>.**

Old Charity Commission.

**Colonial Office, *see* Secretaries of State.****Customs, Board of<sup>3</sup>.****Foreign Office, *see* Secretaries of State.****Home Office, *see* Secretaries of State.****National Debt Office.**

Life Annuity Records.

Tontine Records.

Slave Compensation Claims.

**Paymaster-General's Office.**

Paymaster-general of the Forces.

Paymasters of the Civil List.

Treasurers of the Navy, Ordnance and Chelsea, &c. (after 1836).  
Hospital.

<sup>1</sup> The Ordnance Survey Returns, and Correspondence form an integral part of the old Board of Ordnance Records, but for departmental purposes they appear to belong to the modern Board of Agriculture. This department has also the official custody of the Tithe Maps, formerly belonging to the old Tithe Office, but it has none of the ancient and important Records of the old Board of Agriculture, some of which have been printed.

<sup>2</sup> The Records of the old Charity Commission were removed in 1841 to the Rolls Chapel by order of the Treasury and Home Office, but documents of a legal nature will be found among the Chancery Records. The Records of the existing Commission are of comparatively modern date. Some of these appear to have been transmitted with the Records of the Treasury Solicitor.

<sup>3</sup> It appears from the early Reports of the Deputy Keeper (*7th Rep.* p. 4 and *26th Rep.* p. xix) that several interdepartmental transfers of Records took place between the Treasury and the Customs previous to the final removal of these Records to the Rolls House. It is related that a large number of the Records perished in the fire of 1814. It is at least certain that the existing series is very incomplete so far as it has been transmitted to the Public Record Office.

## Royal Household.

1. Lord Chamberlain's Department<sup>1</sup>:  
Wardrobe<sup>2</sup>.  
Jewel Office<sup>3</sup>.
2. Lord Steward's Department<sup>4</sup>:  
Board of Green Cloth<sup>5</sup>.  
Privy Purse<sup>6</sup>.

## Secretaries of State.

1. Home Department<sup>7</sup>:  
[Post Office].  
Alien Office.  
Expired Commissions<sup>8</sup>.  
Irish Department.
2. Foreign Office:  
Slave Trade Commission.  
American Claims (1794)<sup>9</sup>.  
Levant Company.  
King's Messengers<sup>10</sup>.
3. Colonial Department:  
Board of Trade<sup>11</sup>.  
Board of Control<sup>12</sup>.  
Expired Commissions<sup>13</sup>.

<sup>1</sup> Records transferred from St James's Palace and the office of the Examiner of Plays. Most of the early Records were probably destroyed by the fire in Whitehall in 1691.

<sup>2</sup> Abolished 1782.

<sup>3</sup> Now a department of the Tower of London.

<sup>4</sup> Records transferred from Buckingham Palace.

<sup>5</sup> Records for the most part missing. Some purchased by the Bodleian Library.

<sup>6</sup> Modern Addresses to the Crown. An earlier series was preserved in the State Paper Office.

<sup>7</sup> In addition to the State Papers Domestic and Privy Signet Office described elsewhere, this department has, by virtue of its constitutional position, acquired important Records in connexion with military and naval affairs, Justice, Police, the Church, &c. Some of which supply gaps in other departmental Records.

<sup>8</sup> Most of these are of modern date. For particulars, see the official *Guide* (2nd ed. p. 94, and 3rd ed. p. 392).

<sup>9</sup> This series was deposited in the State Paper Office. The main series are amongst the Treasury and Audit Office Records.

<sup>10</sup> A series of valuable records presented to the Public Record Office by the executors of the late Sir E. Hertslet.

<sup>11</sup> *i.e.* the Records of the Old Board abolished in 1782. These have been officially regarded as dependent on the Colonial Office owing to the preponderance of Papers concerning the Plantations. An early series of Entry Books from 1696 were, however, retained amongst the Records of the Board of Trade as forming part of a continuous series of documents relating to trade generally in distinction to the trade with the Plantations. These have recently been transferred to the Colonial Office Records.

<sup>12</sup> *i.e.* East India correspondence from the State Paper Office. The main series is in the India Office. There are many original papers or copies amongst the Treasury Records.

<sup>13</sup> *e.g.* Land and Emigration Board (1835—1894).



Board of Trade<sup>1</sup>.Treasury<sup>2</sup>.

Expired Commissions.

The Commissary General's Office<sup>3</sup>.Treasury Solicitor's Department<sup>4</sup>.War Office<sup>5</sup>.

Secretary at War's Department.

Board of Ordnance<sup>6</sup>.Board of General Officers<sup>7</sup>.Army Medical Board<sup>8</sup>.Inspector-General of Fortifications<sup>9</sup>.Adjutant General's Department<sup>10</sup>.

Quarter-Master General's Department.

Royal Military Academy.

Royal Military College.

Foreign Department<sup>11</sup>.Office of Works<sup>12</sup>.

<sup>1</sup> *i.e.* The modern department established in 1784. Certain ancient Exchequer documents from the Standards Department of the Board and the enrolled Specifications of Patents from the Patent Office are preserved amongst the legal Records.

<sup>2</sup> Records belonging to the jurisdiction of nearly every department are found amongst the Treasury Records, together with the Records of a large number of expired Commissions, for a list and description of which reference may again be made to the official *Guide* (see above, p. 99, n. 4). The departments chiefly concerned will probably be found to be the Foreign Office, Colonial Office, Exchequer and Audit Office, Inland Revenue, Customs, and India Office (Board of Control). The history of the early custody of these Records will be found in the Reports of the Deputy Keeper. The historical value of this class of Records is very considerable.

<sup>3</sup> *i.e.* the earlier Records of this department which was administered by the Treasury after 1816. The Irish Commissariat Office Records were transferred to Dublin in 1854. Presumably the modern departmental interest in these Records lies with the War Office.

<sup>4</sup> Many of these were transferred from an Office in the Temple.

<sup>5</sup> This department has not been counted amongst those of the Secretaries of State as the jurisdiction of the Secretaries of State herein, previous to 1854, was purely formal. After various vicissitudes the bulk of the War Office Records in the several departments were brought together in the dépôt at 6, Whitehall Yard, whence they were transferred to the Rolls Yard in 1855. Some Records apparently are still preserved at Chelsea Hospital and notices of Records preserved elsewhere have been occasionally published.

<sup>6</sup> Merged in the War Office after 1855.

<sup>7</sup> Better known as the Clothing Board at Whitehall. A large part of its invaluable records was probably destroyed by fire in 1816.

<sup>8</sup> For the almost incredible narrative of the wanton destruction of its Records, see *Deputy Keeper's 8th Report*, Appx. I. p. 2 sqq.

<sup>9</sup> Succeeded to the custody of the Records of the old Ordnance Drawing Office.

<sup>10</sup> Better known as the Commander-in-Chief's Office.

<sup>11</sup> Concerned with the Foreign Corps between 1793 and 1815.

<sup>12</sup> Recently transferred. Some earlier Records are amongst the Exchequer and Treasury Records.

Office of Woods and Forests and Crown Revenues<sup>1</sup>.

B. LIST OF PUBLIC DEPARTMENTS WHOSE EARLY HISTORICAL RECORDS HAVE NOT YET BEEN TRANSFERRED TO THE PUBLIC RECORD OFFICE OR ONLY PARTIALLY TRANSFERRED<sup>2</sup>.

i. Records not yet transferred :

India Office<sup>3</sup>.  
House of Lords<sup>4</sup>.  
House of Commons.  
The Mint<sup>5</sup>.  
The Post Office<sup>6</sup>.  
Board of Agriculture<sup>7</sup>.  
Stationery Office.

ii. Records partially transferred :

Board of Trade<sup>8</sup>.  
Colonial Office<sup>9</sup>.  
War Office<sup>10</sup>.

<sup>1</sup> Exclusive of the Records of the Court of Surveyor General, the Treasury and the Land Revenue Record Office. The extent of the transfers is not indicated in the printed Reports.

<sup>2</sup> The information given in this list is derived from the Deputy Keeper's Reports, official handbooks, Calendars and Blue Books and other printed information. It cannot therefore be regarded as either authoritative or exhaustive; but some such compilation was necessary in order to explain obvious omissions in the preceding list and to save historical students the pains of fruitless search or enquiry. It is a striking fact that less than ten years ago the number of outstanding departments and the bulk of Records still untransferred would have doubled the dimensions of the present list.

<sup>3</sup> How far the imperative conditions of the Act of 1838 and the Order in Council of 1852 apply to the Indian Government is a constitutional question which need not be discussed here. Records relating to Indian affairs have been transferred to the national Archives from other departments (Colonial Office and Treasury).

<sup>4</sup> Certain Records have been inevitably transferred to the Public Record Office, but the characteristic Records of the legislature are still retained.

<sup>5</sup> Exclusive of the ancient legal Records of the Exchequer.

<sup>6</sup> Supplementary to the Home Office series.

<sup>7</sup> Tithe Maps, &c.

<sup>8</sup> Records of the General Registry of Merchant Seamen retransferred from the Public Record Office.

<sup>9</sup> Some Out-Letters retained.

<sup>10</sup> The Records of the Judge Advocate General's department have not been transferred. The office was situated at 35 Great George Street from 1838 to 1893. The Records of the Medical Department are also with one or two exceptions not preserved in the Public Record Office. In 1831 these were at Nos. 4 and 5 Berkely St. It is well known amongst military historians that many regimental records are preserved in local dépôts.

Admiralty<sup>1</sup>.  
Foreign Office<sup>2</sup>.  
Privy Council Office<sup>3</sup>.

<sup>1</sup> Presumably any Records that are still preserved at the out-ports or retained for official reference.

<sup>2</sup> Certain Legation Archives. Those already transferred are noted in the later Reports of the Deputy Keeper.

<sup>3</sup> The Registers down to the end of the 16th century have been transferred to the Public Record Office. The later Registers and many original papers remain at Whitehall.

## APPENDIX IV.

### A. OUTLINE OF THE EXISTING OR PROPRIETARY CLASSIFICATION OF THE RECORDS IN THE CUSTODY OF THE MASTER OF THE ROLLS<sup>1</sup>.

#### I. Records of the Superior Courts of Law :

- i. Chancery.
- ii. King's Bench<sup>2</sup> (Crown Side and Plea Side).
- iii. Common Pleas.
- iv. Exchequer<sup>3</sup>.
  - (a) Exchequer of Pleas.
  - (b) King's Remembrancer's Office.
  - (c) Lord Treasurer's Remembrancer's Office<sup>4</sup>.
  - (d) Augmentations Office<sup>5</sup>.
  - (e) Land Revenue Department<sup>6</sup>.

<sup>1</sup> For the proprietary classification of Records previous to the Public Record Office Act of 1838 see Appendix I. Since the Judicature Acts (1873 and 1879) the arrangement of accruing Records is naturally simplified, and the Records of the Supreme Court of Judicature now follow those of the Common Pleas in the official *Guide*.

<sup>2</sup> The Records of Justices Itinerant are now regarded as a distinct class, a fact which may be due to their abandonment to private custody and inevitable destruction (in most cases) since Edward IV.

<sup>3</sup> The subdivisions of the Exchequer may perhaps be more intelligibly grouped as :

- (a) Exchequer of Pleas.
- (b) Exchequer of Account (K. R. and L. T. R.).
- (c) Exchequer of Receipt (Auditors, Pells and T. of R.).
- (d) Later Departments (Augmentations Office, General Surveyor's Office (Land Revenues), First Fruits and Tenths Office).

In a scheme of structural classification however these later departments must be regarded as abolished Courts, their procedure and Records being exactly analogous to those of the jurisdictions relegated to class II. *infra*. There is a tendency to place the Exchequer immediately after the Chancery in the latest official arrangement.

<sup>4</sup> Including the Pipe Office.

<sup>5</sup> Including the Court of the General Surveyors of the King's Lands annexed to the Court of Augmentations when dissolved under Queen Mary.

<sup>6</sup> See Appendix I. The Records under the departmental control of the Office of Woods were derived from the old Auditors of Land Revenues abolished in 1832. These have now been finally transferred to the Public Record Office.



- (f) First Fruits and Tenths<sup>1</sup>.
- (g) Exchequer of Receipt<sup>2</sup>.
- (h) Treasury of Receipt<sup>2</sup>.

## II. Records of Special or Abolished Jurisdictions<sup>3</sup>:

- i. Court of Requests.
- ii. Court of Star Chamber.
- iii. Court of Wards and Liveries.
- iv. Marshalsea and Palace Courts (including the Marshalsea, etc. Prisons).
- v. High Court of Admiralty.
- vi. High Court of Delegates (and Court of Arches).

## III. Records of the Palatinate of Durham<sup>4</sup>.

## IV. Records of the Palatinate of Lancaster<sup>4</sup>.

## V. Records of the Principality of Wales<sup>5</sup>, and Duchy of Chester.

## VI. Records of the Duchy of Lancaster.

## VII. Records of the Honour of Peveril.

# B. A STRUCTURAL CLASSIFICATION OF RECORDS<sup>6</sup>.

## Class I. Judicial Proceedings.

### Division i. Records of Pleadings<sup>7</sup>.

### Division ii. Subsidiary Records<sup>8</sup>.

#### Sub-division 1. The Chancery.

##### Section 1. Common Law Side.

##### Section 2. Equity Side.

<sup>1</sup> This Court was also erected under Henry VIII and was abolished by Mary, becoming under Elizabeth a department of the Exchequer. A dual control of its Records was the result of the institution of Queen Anne's Bounty Office (2 & 3 Anne c. 20). The Office of First Fruits and Tenths was abolished by 1 Vic. c. 20.

<sup>2</sup> These two departments may be regarded as practically identical.

<sup>3</sup> The Records of these tribunals are very imperfect. No mention is made here of the Council for Wales and Marches or of the Court of High Commission as no Records exist in either case.

<sup>4</sup> The Records of the remaining ecclesiastical palatinate (Ely) have not been transferred into the custody of the Master of the Rolls as required by the Act of 1838. See Appendix I. E.

<sup>5</sup> Including those of the Duchy of Chester. The Records of the Duchy of Cornwall have curiously enough come into the custody of the Exchequer and are described under that Court.

<sup>6</sup> For a more detailed Diplomatic classification of Records, see below, Part II, Appendix.

<sup>7</sup> *i.e.* the Plea Rolls, &c., Decrees and Orders, Pipe Rolls and Memoranda Rolls.

<sup>8</sup> *i.e.* Affidavits, Appearances, Bails, Certificates, Essoins, Indictments, Depositions, Minutes, Writs, Warrants, &c.

## Sub-division 2. The Exchequer.

Section 1. Exchequer of Pleas.

Section 2. Exchequer of Account.

Section 3. Exchequer of Receipt.

Section 4. Later Departments<sup>1</sup>.

## Sub-division 3. Court of King's Bench.

Section 1. Crown Side.

Section 2. Plea Side.

## Sub-division 4. Court of Common Pleas.

## Sub-division 5. Pleas before the Justices Itinerant.

## Sub-division 6. Proceedings of the Supreme Court of Judicature.

## Sub-division 7. Special Jurisdictions.

Section 1. Special Jurisdictions abolished or extinct<sup>2</sup>.Section 2. Special Jurisdictions surviving<sup>3</sup>.

## Class II. Ministerial Proceedings.

Division i. Diplomatic Documents<sup>4</sup>.Division ii. Inquisitions and Returns<sup>5</sup>.

Division iii. Accounts.

Class III. Precedents<sup>6</sup>.

(Divided according to their respective Courts and sub-divided according to the subject-matter<sup>7</sup>.)

Class IV. Miscellaneous<sup>8</sup>.

(Documents exhibited or deposited; arranged according to their diplomatic construction and subject-matter.)

<sup>1</sup> *i.e.* the Augmentations, General Surveyors and First Fruits and Tenth.

<sup>2</sup> Including the Records of the Pleas, &c. of the Forests and the "Judaism," the Courts of Palatinates of Lancaster and Chester, the Marshalsea, &c., Star Chamber, Requests, Wards and Liveries, First Fruits and Tenth, Honour of Peveril, and the High Court of Delegates.

<sup>3</sup> Including the High Court of Admiralty, the Palatinate of Durham and the Duchies of Lancaster and Cornwall. The ancient jurisdiction of the Royal Household is now only represented by the control of Play-houses. The ancient Records of the Legislature and Council are preserved with the judicial Records, and their modern Records are not (with a few exceptions) in the official custody defined by the Act of 1838.

<sup>4</sup> Enrolments or entries of Royal Charters or Confirmations, Writs, Warrants, Letters, Petitions, notarial instruments, &c.; for details, see Part II.

<sup>5</sup> *i.e.* Inquests, Surveys, Extents, Commissions, &c.; for details, see Part II.

<sup>6</sup> *i.e.* the so-called "Books of Remembrance," containing Precedents, *Memoranda* and common-place books connected with the procedure of the Courts or official interests. Some of this class are in the form of Rolls.

<sup>7</sup> *i.e.* Judicial Proceedings, Ministerial Proceedings (Diplomatic Documents, Feodaries, &c.).

<sup>8</sup> See above, p. 59. These would include the originals of diplomatic instruments whenever they have been deposited in official custody, and this class would therefore absorb a large proportion of the ancient Records of the Courts of Augmentations, &c.

## APPENDIX V.

### A. OUTLINE OF THE CLASSIFICATION OF THE STATE PAPERS, *c.* 1545<sup>1</sup>.

This is merely an inventory, but the following titles can be recognized :

1. Letters and writings, or letters and matters touching France, the Emperor (or Germany), Italy and Rome (or the Papacy), German States, Flanders, Denmark, Venice, Calais and Marches, Scotland and North Parts, Wales and Marches.

2. Instructions to ambassadors, Treaty Papers, Passports, Ambassadors' privileges.

3. Warrants, Commissions, Signed Bills, Signet Books, Drafts of Letters Patent, Licences, Pardons, Oaths, Letters of denization, Admiralty documents, Loans, State trials (? *Baga de Secretis*), Certificates of Musters, Lists of Justices of the Peace, Memorials, Household officers, Ecclesiastical matters, Indentures, Accounts.

4. Early Records, Precedents, Treatises.

### B. OUTLINE OF SIR T. WILSON'S CLASSIFICATION OF THE STATE PAPERS, 1619—1629<sup>2</sup>.

I. England (*Britannia Australis*) sub-divided into: 1. *Regalia*<sup>3</sup>; 2. *Legalia*<sup>4</sup>; 3. *Ecclesiastica*<sup>5</sup>; 4. *Militaria*<sup>6</sup>; 5. *Politica*<sup>7</sup>; 6. *Criminalia*<sup>8</sup>; 7. *Mechanica*<sup>9</sup>.

<sup>1</sup> Bags of books, letters and other writings in the Study at Westminster and in several tills within the same, severally described as "great bags," "little bags" or "bags"; "in the cupboards and tills"; "special things in a till"; "Books and Letters remaining in the chest" (*S. P. Documents*, I. 1—4).

<sup>2</sup> *S. P. Documents*, I. 91 (cf. *ibid.* II. 230).

<sup>3</sup> Subdivided again into two groups (*a*) Documents relating to the title or prerogative of the Crown (Warrants, Petitions, &c.), (*b*) Papers relating to the revenue of the Crown (customs, loans, subsidies, lands, &c.).

<sup>4</sup> Acts of Parliament, Proclamations, lay corporations, &c.

<sup>5</sup> Bishopricks and Crown livings, &c.

<sup>6</sup> Subdivided as (*a*) *Terrestria* (Musters, &c.), (*b*) *Thalassiarquia* (Admiralty, sovereignty of the Seas, &c.).

<sup>7</sup> Acts of the Council and instructions to Governors, &c.

<sup>8</sup> Treasons and felonies, Star-Chamber, Recusants, &c.

<sup>9</sup> Trade, Merchants, Exchange, &c.

- II. North Britain (Scotland and the Borders).
- III. Wales and Ireland<sup>1</sup>.
- IV. France.
- V. Italy.
- VI. Spain and Flanders.
- VII. Germany and Denmark and Hanse Towns.
- VIII. Poland, Muscovy, Sweden.
- IX. Low Countries<sup>2</sup> (Holland).
- X. Turkey, Barbary States, the Indies<sup>3</sup>.
- XI. Treaties.
- XII. Miscellaneous (*Mixta*)<sup>4</sup>.

NOTE. It will be seen that this arrangement justifies Sir Thomas Wilson's general division of the Papers of State into the two series still known as "Domestic" and "Foreign" with a third series of "Miscellaneous" which may still be recognized. Colonial Papers were included under Domestic (7), but most of these were probably preserved with the Council Records, whence some found their way into the Manchester and Bridgewater Collections.

#### C. OUTLINE OF SIR J. WILLIAMSON'S CLASSIFICATION OF THE STATE PAPERS, 1682<sup>5</sup>.

England (arranged in year bundles. Papers previous to 1559 in a division called *Anglia vetera*); Scotland and the North<sup>6</sup>; Ireland<sup>6</sup>; Wales; Jersey and Guernsey; Tangier; London; France; the Low Countries; Italy (Switzerland included under France and Germany); Germany; Denmark, Sweden, Poland; Spain and Portugal.

Treaties and Treaty Papers; King's Letters; Church; Parliament (in three groups: (i) Orders, &c. (a) before 1560, (b) 1560—1640, (c) 1640 onwards. (ii) Debates. (iii) Drafts of Bills); Household; "Offices"; "Usurpation"; Signet Books; *Criminalia*; Militia (including Ordnance).

<sup>1</sup> In one part of the MS. France precedes Ireland, and Wales is omitted; but in the explanatory part the order is as given here.

<sup>2</sup> Styled the United Provinces.

<sup>3</sup> Including Persia.

<sup>4</sup> Wilson explains that whereas the above eleven classes represent the true Secretarial Papers, recovered by himself, the older collection (largely mingled with early records) which had been kept together from 1522 to 1590 is included under this last heading.

<sup>5</sup> *S. P. Documents*, II. 49, but the MS. seems to be imperfect and should be supplemented by the plan which accompanies it. It is difficult to decide whether this constitutes Williamson's final arrangement or whether this was revised by his successor between 1702 and 1706 (cf. *S. P. Documents*, II. 82—86). At the latter date a few new headings seem to have been added, though these are chiefly of a temporary character, e.g. the Rebellion (? Rye House Plot). On the other hand we have Plantations, Mint, Post Office, Warrants, Passes, Certificates, Intelligence, &c. The actual order in which the papers were placed in the presses was quite fortuitous and has been disregarded in the present "outline."

<sup>6</sup> Some early papers also in *Anglia vetera*.



D. OUTLINE OF THE CLASSIFICATION OF THE STATE PAPERS BY  
THE METHODIZERS, 1764—1800<sup>1</sup>.

A double classification was, apparently, necessitated by the preservation of the State Papers in two different repositories, the older series being kept in the Paper Office in the Cock-pit and the papers accruing since 1706 in the Transmitter's Office.

(a) Old Series (Alphabetical).

Admiralty, Ambassadors, Army, Correspondence, Foreign (by countries in alphabetical order)<sup>2</sup>, Coronations, Court Offices<sup>3</sup>, Courts<sup>4</sup>, Commissioners<sup>5</sup>, Denmark, *Domestica Miscellanea*, Eastern princes<sup>5</sup>, Ecclesiastical Affairs, England<sup>5</sup>, Fisheries, Flanders, Foreign Trade, France, Genealogies, Genoa, Germany, Guernsey and Jersey, Hanse Towns, Heralds and Heraldry, Interregnum<sup>5</sup>, Ireland (with sub-divisions in imitation of Wilson's system)<sup>2</sup>, Italy, Knights<sup>5</sup> and Knighthood, Law, Letters, Merchants and merchant ships, *Militaria*, Mint, &c., Negotiations, Netherlands, Papists and Popish Recusants, Parliamentary Affairs, Petitions, Plague, Plantations, *Politica*, Portugal, Proclamations<sup>5</sup>, Records, Rome<sup>5</sup>, Royal Letters, Royal Prerogative, Royal Revenue, Russia and Sweden<sup>5</sup>, Saxony<sup>5</sup>, Scotland, Spain, Styles and Titles<sup>6</sup>, Strangers<sup>7</sup>, Sweden, Tangier, Trade, Treaties (with the States, grouped alphabetically and geographically), Turkey, Venice, Voyages and Discoveries, Wales.

(b) Modern Series<sup>8</sup>, consisting of:

1. Later Papers, supplementary to the above, chiefly in respect of Foreign Correspondence and Treaties, with such new headings as Hanover and Whitehall ("Regencies") and America. The Foreign "Ministers" of the several countries are distinguished, as also are the German and Italian States.

2. Domestic, Colonial and Trade Papers and Entry Books, and the class now known as "Foreign 'Domestic'." These give us the same headings as occur for similar subjects in List (a), with the following additions: Warrant Books<sup>9</sup>, Domestic Correspondence<sup>9</sup>, Law Papers<sup>9</sup>, Petitions<sup>9</sup> and Memorials<sup>10</sup>,

<sup>1</sup> This classification is quite unintelligent and abounds with inconsistencies and repetitions. For Edwards's criticism of it, see *Libraries*, p. 204.

<sup>2</sup> This sub-arrangement is not mentioned in the 1800 Report.

<sup>3</sup> Council matters, &c.

<sup>4</sup> Star-Chamber, Wards, &c.

<sup>5</sup> Omitted in 1800 Report.

<sup>6</sup> Precedents, probably for Royal Letters and King's Letters.

<sup>7</sup> Aliens.

<sup>8</sup> Some of the series, however (*e.g.* Scotland and Ireland) begin in the reign of Charles II.

<sup>9</sup> These titles are still preserved.

<sup>10</sup> Including Inventions.

Corporation Papers, Domestic Letters, Rebellion, &c., Customs, Excise, Post Office<sup>1</sup>, America and West Indies<sup>1</sup>, Projects and Counter-Projects, Gibraltar, Minorca, Board of Trade<sup>1</sup>, East India Company, South Sea Company, Foreign Ministers.

E. OUTLINE OF THE STATE PAPER OFFICE CLASSIFICATION, 1848—1862<sup>2</sup>.

i. Foreign.

(a) Letters and Papers<sup>3</sup>, in alphabetical order under countries [1509]<sup>4</sup> to 1688, with the Entry Books and Letter Books relating to the same<sup>5</sup>.

(b) Royal Letters<sup>6</sup>.

(c) King's Letter Books<sup>7</sup>.

(d) Ciphers<sup>8</sup>.

(e) Foreign Various<sup>9</sup>.

ii. Domestic.

(a) Letters and Papers relating to England and Wales, Scotland and the Borders, the Channel Islands and Calais [1509]—1688<sup>4</sup>, in chronological order<sup>10</sup>.

(b) Domestic Various<sup>11</sup>.

(c) Ireland (Letters and Papers, Entry Books and Miscellaneous Documents).

(d) Miscellaneous, including :

1. Original documents (Papers and Records<sup>12</sup>).

2. Transcripts and compilations<sup>13</sup>.

<sup>1</sup> These titles are still preserved.

<sup>2</sup> Probably devised by Mr Charles Lechmere.

<sup>3</sup> Including Treaty Papers (under "T.") and with many miscellaneous documents and printed treatises, &c., interspersed.

<sup>4</sup> Some much earlier now included in "Ancient Correspondence," &c.

<sup>5</sup> *i.e.* the Foreign Entry Books, Secretary's Letter Books, &c.

<sup>6</sup> In-Letters from Royalties.

<sup>7</sup> Entry Books of Diplomatic Instruments and Precedents and Out-Letters to Royalties, also termed "King's Letters." The Letter Books were subdivided as relating to Northern and Southern Departments respectively.

<sup>8</sup> With keys.

<sup>9</sup> This division corresponded roughly with the Domestic Miscellaneous (below) and contained rough letter books, precedents and deposits.

<sup>10</sup> Including a large number of subsidiary documents and deposits, such as original instruments or drafts (Letters Patent, Privy Seals, Warrants, &c.), Docquets, Proclamations, Passes, Certificates, Petitions, Precedents, Treatises, Musters, Exchequer Papers and Departmental Papers (Navy, &c.).

<sup>11</sup> Including a continuous series of Warrants, Docquets, Law-Papers, Caveats, Letter Books, &c.

<sup>12</sup> A few only.

<sup>13</sup> Chiefly of or from early Records.

3. Printed Treatises, &c.
4. Supplementary Instruments (Petitions, Warrant Books<sup>1</sup>, &c.).
5. Supplementary Papers (Tangier<sup>2</sup>, Navy Papers).
6. Chapter House Papers<sup>3</sup>.

iii. Colonial<sup>4</sup>.

- (a) Correspondence and Entry Books in alphabetical order of the Colonies and in chronological order (1605—1688).
- (b) Plantations General<sup>5</sup>.
- (c) Journals<sup>6</sup>.
- (d) East Indies (original correspondence and Entry Books)<sup>7</sup>.

F. OUTLINE OF THE DEPARTMENTAL CLASSIFICATION OF THE  
STATE PAPERS, 1873—1889<sup>8</sup>.

i. *Home Office Records*<sup>9</sup>.

1. Letters and Papers (Domestic) from 1689<sup>10</sup> [to 1830].
2. Entry Books and Letter Books (Domestic)<sup>11</sup>.
3. Miscellaneous Papers and Books<sup>12</sup>, &c.
4. Departmental Papers and Entry Books. Arranged in alphabetical order of Countries, Departments, Subjects and Instruments indiscriminately<sup>13</sup>.

<sup>1</sup> Scottish.

<sup>2</sup> Afterwards transferred to Colonial Papers.

<sup>3</sup> Lisle and other collections.

<sup>4</sup> This arrangement was only provisional as these Papers were not yet arranged.

<sup>5</sup> A heading still retained. <sup>6</sup> *i.e.* Minutes of the Board of Trade and Plantations.

<sup>7</sup> Exclusive of the East India Company's Records.

<sup>8</sup> This classification obtained from about the year 1870 till the publication of the Lists of State Papers Domestic (1894), Foreign (1904), and Colonial (1908), and was the result of an artificial arrangement of the State Papers subsequent to their transfer to the Public Record Office. As previously stated (p. 67) the Lists of Home Office, Foreign Office and Colonial Office "Records," containing the results of this rearrangement, have been printed for the use of the Public and for private circulation only. Although details of these Lists have been frequently published both in this country and abroad, it has not seemed desirable or necessary to reproduce them here. The outline given here is based on the classification employed in the admirable List published under the supervision of the present Deputy Keeper in 1894. An outline will be found also in the official *Guide* (2nd ed.).

<sup>9</sup> These include many documents of later date than 1782, and therefore of a departmental character only.

<sup>10</sup> This list was evidently intended as a continuation of the old State Paper Office List as far as the actual State Papers Domestic were concerned. The old regional divisions are continued with the addition of the Channel Islands, Regencies, &c. In the case of Scotland and Ireland, however, the whole series was included. Throughout many irrelevant documents are mixed with the Papers.

<sup>11</sup> Including, besides correspondence, formal instruments such as, Warrants, Passes, Licences, Petitions, Caveats, Commissions, Docquets, &c.

<sup>12</sup> *e.g.* Circulars, Precedents, Records, Acts, Treatises, Newspapers, &c.

<sup>13</sup> These early departmental papers are properly State Papers. On the other hand Navy Board Papers, mixed with the State Papers before 1673 are really departmental.

ii. *Foreign Office Records* (1883—1894).

1. Correspondence with English ambassadors, consuls and agents and with foreign ministers, including In-Letters, Out-Letters and miscellaneous documents, arranged in alphabetical order of countries mixed with special subject-headings<sup>1</sup>.

2. Ciphers<sup>2</sup>.

3. Intercepted Letters<sup>3</sup> ("Confidential Miscellaneous").

4. Foreign Various<sup>4</sup>.

5. Royal Letters<sup>5</sup>.

6. Treaty Papers<sup>6</sup>.

7. Treaties<sup>7</sup>.

iii. *Colonial Office Records* (1876—1907)<sup>8</sup>.

1. Colonial Papers and Entry Books<sup>9</sup>.

2. "America and West Indies" (Papers and Entry Books)<sup>10</sup>.

3. Board of Trade (Papers and Entry Books)<sup>11</sup>.

4. Colonial Correspondence<sup>12</sup>.

5. Colonial Transmissions<sup>13</sup>.

6. Acts, Minutes of Council, Journals of Assembly<sup>14</sup>.

7. Miscellaneous<sup>15</sup>.

The above arranged in alphabetical and chronological order<sup>16</sup>.

<sup>1</sup> *e.g.* Great Britain, General, King's Letters, Foreign Entry Books, Letters to Public Offices, Military Expeditions, Levant Company, &c.

<sup>2</sup> With decipherers.

<sup>3</sup> In foreign languages chiefly (1726—1765). Many others are at the British Museum.

<sup>4</sup> Drafts, duplicates, inclosures, Treatises, Précis and Compilations. A few Archives are included here as well as amongst the Correspondence.

<sup>5</sup> Letters of ceremony from foreign princes.

<sup>6</sup> 1668—1848 (a convenient subdivision).

<sup>7</sup> Protocols and Ratifications, *i.e.* original documents.

<sup>8</sup> See the description of the American Series by Prof. C. M. Andrews, in *A. H. R.* (1905).

<sup>9</sup> Previous to 1688.

<sup>10</sup> Matters concerning the Secretary of State's department as opposed to the regulation of Trade and Colonial administration by the Board of Trade and Plantations, with some miscellaneous papers.

<sup>11</sup> Matters concerning the latter department, with an admixture of such subject-headings as Navy, &c., between 1689 and 1782.

<sup>12</sup> Governors' despatches.

<sup>13</sup> Bulky inclosures, chiefly.

<sup>14</sup> Inclosed in official despatches for approval.

<sup>15</sup> Chiefly departmental papers after 1782.

<sup>16</sup> These headings are those for the period 1574—1782 only. The later titles include departmental Records not yet open to the public, and therefore cannot be referred to here.



G. A STRUCTURAL CLASSIFICATION OF THE STATE PAPERS<sup>1</sup>.

I. Letters and Papers, distinguished as In-Letters (Received), and Out-Letters (Issued)<sup>2</sup>.

i. In-Letters, distinguished by :

- (a) Form (Apographs, Holographs, Signed Letters, Entries, &c.).
- (b) Environment<sup>3</sup> (Inclosures, Intercepted, Duplicate, Secret, Private, Confidential, Separate, Official, &c.).
- (c) Subject (Royal Letters, Intelligence, Newsletters, References, Reports, Petitions, Memorials, Addresses, Domestic, Foreign, Council, Admiralty, &c.).

ii. Out-Letters, distinguished by :

- (a) Form (Drafts, Entry Books<sup>4</sup>, Letter Books, &c.).
- (b) Environment (King's, Secretaries', Regencies, Domestic, Foreign, North, South, Whitehall).
- (c) Subject (Criminal, Military, Church, &c.).

II. Instruments (Secretarial).

i. Originals or Drafts of Warrants, &c.

ii. Entries<sup>4</sup> of Warrants, Commissions, Instructions, Caveats, &c.

III. Miscellaneous, including many documents, now mixed with I. above, as: Instruments, Maps, Ciphers, Records, Accounts, Archives, Precedents, Printed Matter, &c.

H. HEADS OF A PROPRIETARY CLASSIFICATION OF THE STATE PAPERS<sup>5</sup>.*Series I. State Papers Domestic<sup>6</sup>.*

i. Letters and Papers, arranged according to :

- (a) Regions<sup>7</sup>, in chronological order.
- (b) Departmental business, in alphabetical and chronological order<sup>8</sup>.

<sup>1</sup> Regarded as "Records and Papers of State"; including State Papers Domestic and Foreign 1509 to 1782, and Colonial 1574 to 1782.

<sup>2</sup> Most of these are existing or recent sub-headings.

<sup>3</sup> *i.e.* by the circumstances of their authorship, custody, transmission, &c.

<sup>4</sup> Entry Books are of the three following types (a) Copies of In-Letters for preservation or reference, (b) Copies of Out-Letters (Letter Books), (c) Enrolments of formal instruments, such as Warrants, Signet Letters, Passes, Caveats, &c.

<sup>5</sup> Based on the preceding classification but distinguishing the proprietary interest of the modern departments of State.

<sup>6</sup> Including Scotland, Borders, Ireland, Channel Islands and Regencies with England and Wales.

<sup>7</sup> As in the preceding note.

<sup>8</sup> Giving such subject-headings as Military, Naval, Law Papers, Grants, &c.

## ii. Entry Books and Letter Books for :

(a) Entries of In-Letters<sup>1</sup>.(b) Instruments<sup>2</sup>.(c) Out-Letters<sup>3</sup>.iii. Miscellaneous<sup>4</sup>.*Series II. State Papers Foreign.*i. Letters and Papers, arranged in alphabetical order of countries under "Northern" and "Southern" Departments<sup>5</sup>, and distinguished as :(a) Diplomatic Correspondence ("Foreign" and "Domestic")<sup>6</sup>.(b) Special Subjects<sup>7</sup> (Treaties, Treaty Papers, Royal Letters, Newsletters, "General").ii. Entry Books and Letter Books<sup>8</sup>, for :(a) Entries of In-Letters<sup>9</sup>.(b) Instruments<sup>10</sup>.(c) Out-Letters<sup>11</sup>.iii. Miscellaneous<sup>12</sup> (Archives, Intercepted Papers, Duplicates, Registers and compilations, &c.).*Series III. State Papers Colonial*<sup>13</sup>.

## i. Letters and Papers (Secretary of State's).

(a) Colonial Correspondence.

(b) Special Subjects.

In alphabetical and chronological order of the Colonies, distinguishing

<sup>1</sup> *e.g.* Governors' despatches.<sup>2</sup> *e.g.* Warrant Books, &c.<sup>3</sup> *e.g.* King's and Secretaries' Letter Books.<sup>4</sup> Heterogeneous documents thrown out from (i) with precedents, common-place books, ciphers, circulars, &c.<sup>5</sup> This division which goes back to the 17th century is very helpful.<sup>6</sup> That is the despatches received from English Ministers abroad and the notes received from Foreign Ministers in England respectively.<sup>7</sup> These are all recognized headings.<sup>8</sup> In the later period Out-Letters (to the Ministers abroad) are only preserved in the form of Drafts, usually bound up with the In-Letters.<sup>9</sup> *e.g.* Treaty Papers.<sup>10</sup> *e.g.* Instructions, Passes, Commissions, Credentials, &c.<sup>11</sup> King's and Secretaries'.<sup>12</sup> *i.e.* deposited or departmental documents, such as Précis, &c.<sup>13</sup> In this theoretical classification the Records of the old Board of Trade are regarded as departmental and not as State Papers.

between America and the West Indies, Africa, India<sup>1</sup>, &c., and with the necessary subject-headings<sup>2</sup>.

ii. Entry Books and Letter Books, for :

(a) Entries of In-Letters<sup>3</sup>.

(b) Instruments<sup>4</sup>.

(c) Out-Letters<sup>5</sup>.

iii. Miscellaneous (Archives of ceded Colonies, Colonial Acts and Sessional Papers, Printed Treatises, Journals, Reports, &c.).

<sup>1</sup> Thus Tangier would come under Africa (North) and Sierra Leone under Africa (West), with a group of Mediterranean "Colonies." The distinction between "settled" and "ceded" colonies would scarcely be serviceable.

<sup>2</sup> Such as Military, Naval, General, &c.

<sup>3</sup> These are very numerous in the present series.

<sup>4</sup> Such as Orders in Council, Grants of Land, Instructions, Acts of Assembly, &c.

<sup>5</sup> To Governors and Commanders.

## APPENDIX VI.

### THE CLASSIFICATION OF DEPARTMENTAL RECORDS.

#### A. *Theory of the Classification of the Records of a Department in Commission*<sup>1</sup>.

##### I. Records of the modern department (Board)<sup>2</sup>:

1. In-Letters<sup>3</sup>.
2. Registers<sup>4</sup>.
3. Minutes.
4. References<sup>4</sup>.
5. Reports<sup>4</sup>.
6. Out-Letters (classed as Letters, Warrants, Commissions, Orders, Instructions)<sup>5</sup>.
7. Books of Reference (under subject-headings)<sup>6</sup>.
8. Miscellaneous<sup>7</sup>.

[The above classes to be sub-divided under the various sub-departments, or by earlier and later series, or by subjects, in alphabetical and chronological order.]

##### II. Records of an ancient department (Board) now absorbed by a modern department (Board)<sup>8</sup>.

[The same method of classification will obtain. If more than one such ancient department is included under the same jurisdiction, each will follow a similar arrangement under a distinct proprietary title.

The ancient sub-departments (if any)<sup>9</sup> will be distinguished as contemporary divisions in the above scheme of classification.]

<sup>1</sup> *e.g.* the Admiralty (Secretary) and Treasury. Some other Boards, such as the Customs and Inland Revenue, are possessed of very imperfect collections of ancient Records. Others again, such as the Board of Ordnance (which was not a Commission in the usual sense) and the old Board of Trade have been merged in modern Secretarial departments (War Office and Colonial Office). Certain smaller modern Commissions are omitted here since they possess few Records of historical interest.

<sup>2</sup> Assuming that this is properly entitled to the Records now within its jurisdiction.

<sup>3</sup> Of various forms and descriptions.

<sup>4</sup> These classes of Records do not always occur in existing departments.

<sup>5</sup> These types are often distinguished by special titles.

<sup>6</sup> Such as Accounts, Establishments, Returns, &c.

<sup>7</sup> Either mere office-books or documents deposited, &c. The Records of the ancient departments referred to below (B) are not included here.

<sup>8</sup> *e.g.* the Navy Board, Victualling Office, Transport Board, Medical Board, Greenwich Hospital, &c., under the modern Board of Admiralty.

<sup>9</sup> *e.g.* the Navy Office (Comptroller and Surveyor) and Navy Pay Office (Treasurer) representing the Navy Board, together with the Bill Office, Ticket Office, Imprest Office



III. Records of an ancient department (not in Commission) now absorbed by a modern department (in Commission)<sup>1</sup>.

- i. In-Letters.
- ii. Out-Letters.
- iii. Books of reference.
- iv. Miscellaneous.

B. *Theory of the Classification of the Records of a Department not in Commission*<sup>2</sup>.

I. Records of the modern department.

- |  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>i. In-Letters<sup>3</sup>.</li> <li>ii. Out-Letters<sup>4</sup>.</li> <li>iii. Books of reference<sup>5</sup>.</li> <li>iv. Miscellaneous<sup>6</sup>.</li> </ul> | } | With sub-divisions for the subordinate departments. |
|--|---|---|

subordinate to the above. Numerous Commissions of Enquiry have transferred their Records to certain of the larger departments, notably the Treasury and Home Office. These Records differ widely in character from those of the ancient Boards. Generally speaking they will be found to include the following subjects: (1) Departmental correspondence, (2) Registration and statement of claims or counter-claims, (3) Proceedings of the Commissioners, (4) Awards, (5) Official Accounts of Liquidators of claims. For details, see the official *Guide*.

<sup>1</sup> The existence of such departments is quite exceptional, for unless an independent department represented the agency either of the Secretarial or Household officers of the Crown, it would inevitably derive its authority from a Royal Commission. Instances of such exceptional jurisdictions might perhaps be found in the case of the Royal Marine Office (Admiralty) and the Exchequer and Audit Office, but of these the connexion of the latter with the Treasury is anomalous whilst the Records of the former are evidently incomplete.

<sup>2</sup> This again is a purely artificial classification, necessitated by the existence of exclusive departmental jurisdictions. The chief departments included here are the Home, Foreign, Colonial and War Offices and the Royal Household. Certain small modern Commissions whose records are of an irregular type should probably be included here instead of under Boards. The characteristic distinction of the present group is the absence of Registers, Minutes, References and Reports<sup>1</sup> as separate series.

<sup>3</sup> In the form either of miscellaneous Letters and Papers (Home Office) or of Despatches (Foreign, Colonial and War Offices) resembling the correspondence of earlier date classified as State Papers.

<sup>4</sup> Copies of official letters despatched, and Entry Books of In-Letters are rarely found with these. In some cases only Drafts are preserved bound with the In-Letters (Foreign Office). Instruments are found which represent the administration of the royal prerogative by these departments (Commissions, Orders, Instructions, Warrants).

<sup>5</sup> Of the same nature as those mentioned above p. 94, especially in the case of War Office Records.

<sup>6</sup> Including a still larger collection of Common-place Books and semi-official correspondence, with deposits such as Soldiers' and Sailors' Wills, Colonial and Legation Archives, and printed papers, &c.

<sup>1</sup> With the exception of some collections of Law Officers' Opinions and Judges' Reports. Registers of War Office correspondence were prepared for official use from 1793 onwards and probably the same remark applies to the other departments under consideration. These Registers however were connected with the machinery for answering the In-Letter rather than with its consideration upon being read *pro forma*.

II. Records of an ancient department (not in Commission) now absorbed by a modern department<sup>1</sup>.

[To follow the same arrangement as above (A. III. and B. I.) with a separate heading for each ancient department, if more than one is included in the same jurisdiction.]

III. Records of an ancient department (in Commission) now absorbed by a modern department (not in Commission)<sup>2</sup>.

[To follow the same arrangement as above (A. I.).]

<sup>1</sup> There are few such departments possessed of historical Records. Those of the Surveyors General of Woods and Works and of the Judge Advocate General (War Office) might perhaps be included under this head, if they have been preserved intact; and the same remark applies to the old Commissariat department subsequently administered by the Treasury and War Office successively.

<sup>2</sup> Important instances occur in the case of the Ordnance Board, absorbed by the War Office since 1855, and the old Board of Trade (ending 1782), the Records of which are claimed by the Colonial Office. In the case of the latter department the Journals appear to serve the general purpose of Minutes, Reference and Report Books, whilst a curious system of registration prevailed by means of an alphabetical and numerical notation resembling somewhat the ideographic system of the mediaeval repositories.

# APPENDIX

## SPECIMEN RESEARCH FORM FOR A HISTORICAL

Historical Subject	Printed References	Parallel MSS.
The Inquest of Judges— (Edwardian State Trials, 1289—1293 illustrating Political History, Consti- tutional History, Social History, History of English Law, Biography, &c.).	<p><i>The State Trials of the reign of Edward I.</i> (ed. T. F. Tout and Hilda Johnstone) (1906)</p> <p><i>Red Book of the Exchequer</i> (Rolls), CCCXV. sq.</p> <p>Stubbs, <i>C. H.</i> II. 125</p> <p>Ramsay, <i>Dawn of the Con- stitution</i>, p. 366 sq.</p> <p>Pauli, <i>Geschichte</i>, IV. 50 sq.</p> <p>Political History of England</p> <p>Seeley, <i>Edward I.</i> p. 75 sq.</p> <p>Foss, <i>Judges</i>, s.t.</p> <p><i>Dict. Nat. Biogr. s.t.</i></p> <p><i>Calendars of Patent Rolls</i> (1272—1292)</p> <p><i>Calendars of Close Rolls</i> (1279—1296)</p> <p><i>Calendars of Ancient Deeds</i></p> <p><i>Calendar of Inquisitions P.M.</i></p> <p><i>Abbrev. Placitorum (passim)</i></p> <p>Stowe, <i>Survey</i>, I. 86</p> <p><i>Foedera</i>, I. (2) 711, 715</p> <p><i>Ann. Lond.</i> 97 sq.</p> <p>— <i>Dunstable</i>, 355 sq.</p> <p>— <i>Wav.</i> 408</p> <p>— <i>Berm.</i> 467</p> <p>— <i>Wigorn.</i> 499</p> <p>Wykes, 319</p> <p>Bart. Cott. 171 sq.</p> <p>Peckham, III. 968</p> <p>Heminburgh, II. 16</p> <p><i>Chron. Ed. I. and II.</i> I. 97</p> <p><i>Flor. Hist.</i> III. 70 sq.</p> <p>Rishanger, 420</p> <p>J. Oxnead, 275</p> <p><i>Cont. Flor. Wigorn.</i> II. 241</p> <p><i>Chron. Melsa</i>, II. 251</p> <p><i>etc.</i></p>	<p>MS. Cotton Nero, A. 6 fo. 32</p> <p>MS. All Souls' Coll. 39, fo. 109 b.</p> <p>MS. Add. 31826, fo. 54</p> <p><i>etc.</i></p>

## VII.

### SUBJECT FROM VARIOUS OFFICIAL SOURCES.

Classified Source	Official Reference	Description
<i>Judicial Proceedings</i>		
i. Records of Pleas (Chancery)	Parliament Rolls	Enrolment of Proceedings in Parliament
(Exchequer)	Plea Rolls Memoranda Rolls	Special pleadings on Accounts Enrolments of precepts, appearances, recognizances, &c.
(King's Bench)	<i>Coram Rege</i> Rolls Assize Rolls, &c.	Pleas of the Crown and Civil Pleas Proceedings of the Justices in eyre and Commissioners
(Common Pleas)	Gaol Delivery Rolls <i>De Banco</i> Rolls	Proceedings against prisoners Common Pleas held by the Justices
ii. Subsidiary Records (Chancery)	Feet of Fines	Conveyances of lands
(Exchequer)	Miscellaneous Inquisitions Parliamentary Proceedings  Exchequer (K. R.) Proceedings Miscellanea of the Exchequer L. T. R. Miscellaneous Rolls	Information or Proceedings subsidiary to the Commissioners' inquiry
<i>Ministerial Proceedings</i>		
i. Diplomatic Documents		
(a) Originals	Ancient Petitions	Addressed to the King in Council or to the Parliament or Chancellor
(Chancery)	Warrants for Issue  Ancient Correspondence	Directions for preparing letters under the Great Seal, &c. Addressed to the King or Chancellor
(b) Enrolments (Chancery)	Patent Rolls Close Rolls Fine Rolls	Grants, Mandates, Commissions, &c. Precepts of several kinds Notes of Fines or Oblations offered in return for Pardon, &c.
	Redisseisin Rolls	Memorandum of the King's transference
(Exchequer)	Originalia Rolls	Memoranda of Grants for which Fines, &c. are due



APPENDIX VII. (*continued*). SPECIMEN RESEARCH FORM FOR A  
HISTORICAL SUBJECT FROM VARIOUS OFFICIAL SOURCES.

Historical Subject	Printed References	Parallel MSS.

Classified Source	Official Reference	Description
ii. Inquisitions and Returns (Chancery)	Inquisitions P.M. Hundred Rolls Miscellaneous Inquisitions }	On the deaths of Crown tenants Inquisitions concerning local misgovernment and encroachments
iii. Accounts (Exchequer)	Pipe Rolls Liberate Rolls Issue Rolls Receipt Rolls Exchequer Accounts	Declarations of Sheriff's Accounts Payments of Salaries, &c. Payments out of Revenue Receipts of Revenue Of Amerciaments, &c.
<i>Precedents</i>	Exch. K. R. Misc. Bks. No. 2 (Red Book of Exchequer) <i>Liber Memorandum</i>	The case of Adam de Stratton Memoranda and Inventories of Exchequer Records
	Kirkby's Quest (Exch. K. R. Misc. Bks. No. 17)	Feudal tenures, 1285
<i>Miscellaneous</i> (Exhibits or Deposits)	Ancient Deeds Ministers' Accounts etc.	Charters, bonds and other title-deeds relating to the accused judges Relating to the estates of the accused

## APPENDIX VIII.

### THE SEVERAL REFERENCES TO THE STATE PAPERS OF A SINGLE YEAR (1697) REMAINING IN OFFICIAL CUSTODY<sup>1</sup>.

#### I. *State Papers Domestic.*

- (a) S. P. Dom. William and Mary.  
S. P. Dom. King William's Chest.

- (b) S. P. Dom. Entry Books<sup>2</sup>.  
(Caveats).  
(Council Office).  
(Ecclesiastical).  
(Military).  
(Passes).  
(Petitions).  
(Precedents).  
(Warrants).

- (c) S. P. Dom. Letter Books.  
(King's).  
(Secretary's).  
(Signet Office)<sup>3</sup>.

- (d) [H. O.] Admiralty<sup>4</sup>.  
[H. O.] Law Papers.  
[S. P. Dom.] Proclamations.

<sup>1</sup> This year has been selected without any particular reason. The selection excludes a few well-known series of earlier or later date, such as "Borders" and "Post Office," and does not include semi-official collections or foreign transcripts. Where this year is not indicated in the published Lists, the covering dates are presumed to include it, in accordance with the usual method of research.

<sup>2</sup> These occasionally refer to Foreign and Colonial matters and more than one subject is often entered in the same volume.

<sup>3</sup> These are really Irish Letter Books. The Signet Office Records are not included in this list.

<sup>4</sup> Outlying State Papers such as the Greenwich Hospital (Admiralty) Newsletters and others included in the official Calendars have not been included here. It will be found moreover that there is considerable difficulty in distinguishing between "State Papers" and the "Departmental Papers" of the Admiralty, Treasury, War Office and Ordnance, &c., some of the latter being included in the official Calendars or Lists of State Papers though they have been omitted here.

- (e) State Paper Office Documents<sup>1</sup>.
- (f) State Papers Supplementary<sup>2</sup>
- (g) State Papers Miscellaneous<sup>3</sup>.
- (h) State Papers, Scotland (Letters and Papers).  
(Warrant Book).
- (i) State Papers, Ireland. (Letters and Papers).  
(King's Letter Book).
- (j) State Papers, Channel Islands.
- (k) [H. O.] Regencies<sup>4</sup>.

2. *State Papers Foreign.*

- (a) Letters and Papers from various European and African States<sup>5</sup>.
- (b) Royal Letters from and to the same.
- (c) Foreign Entry Books for the same.
- (d) Newsletters from the same.
- (e) Foreign Ministers for the same.
- (f) Treaty Papers for the same.
- (g) Treaties with the same.
- (h) Archives of English Missions to the same.
- (i) State Papers Foreign, "Various."

3. *State Papers Colonial.*

- (a) Colonial Papers.
- (b) Colonial Entry Books.
- (c) America and West Indies.
- (d) Sessional Papers.
- (e) Papers of the Board of Trade (Plantations).
- (f) Entry Books of the same (Plantations).
- (g) Entry Books of the same (Trade).

<sup>1</sup> A semi-official collection relating to the State Papers at large.

<sup>2</sup> To the Domestic Letters and Papers, a collection of greater value for an earlier period.

<sup>3</sup> The residue of Sir J. Williamson's collection not distributed amongst the other series.

<sup>4</sup> *i.e.* correspondence with the Lords Justices during the King's absence.

<sup>5</sup> This series also includes "Military Auxiliary Expeditions" which are detached from the War Office correspondence for reasons explained elsewhere.

## APPENDIX IX.

### OUTLINE OF THE PRINCIPAL SOURCES FROM WHICH THE DEPARTMENTAL RECORDS IN OFFICIAL CUSTODY<sup>1</sup> MIGHT BE SUPPLEMENTED<sup>2</sup>.

1. Departmental Records in official custody not yet arranged or described (if any)<sup>3</sup>.
2. Departmental Archives not yet transferred to the above official custody (if any)<sup>4</sup>.
3. Papers removed from State Departments, viz.
  - (a) Presented to or acquired by the Public Record Office<sup>5</sup>.
  - (b) Acquired by public Libraries or Institutions<sup>6</sup>.
  - (c) Acquired by private corporations.
  - (d) Acquired by individual collectors.
  - (e) Still in the custody of official families or their legal representatives<sup>7</sup>.
  - (f) Acquired by foreign institutions or collectors.
  - (g) Transcripts or texts of any of the above available for reference.

<sup>1</sup> *i.e.* the Public Record Office as indicated by the Order in Council of 1852.

<sup>2</sup> This list is intended to serve as a mere suggestion of the several external sources which should be borne in mind by the student. It does not cover cases of the transfer of Records from one Department to another. It will apply equally to State Papers.

<sup>3</sup> See *Official Guide*, p. 366 sq.

<sup>4</sup> See notices in the daily press of recent discoveries of departmental Records.

<sup>5</sup> See *Official Guide*, p. 403.

<sup>6</sup> *e.g.* the British Museum, University Libraries, Royal Institution, &c.

<sup>7</sup> See Historical Manuscripts Commission, *17th Report*, Index.



# APPENDIX

## OUTLINE OF THE BIBLIOGRAPHY OF

### I. MEDIAEVAL

Title	Form and Extent of Publication	Production and Distribution
1. General Works of Reference:		
(a) Bibliographies		
(b) Guides (to Archives and Collections)		
(c) Handbooks of Auxiliary Studies		
2. Lists:		Official Enterprise
Indexes	Collections	Corporate "
Inventories	Single Works	Individual "
Repertories	Periodicals	
Catalogues		National Interest
3. Calendars	Complete Editions	Regional "
	Partial "	County "
4. Transcripts and Facsimiles		Parochial "
		Manorial "
		Institutional "
5. Texts of Documents		
6. Excerpts from Texts ("Source-Books")		
7. Original Compositions		

# X.

## OFFICIAL HISTORICAL DOCUMENTS.

### RECORDS.

Date of Publication	General Historical Subject	Special Historical Subject
Early Modern Works	Political Constitutional Social Economic Ecclesiastical Local History	Laws and Ordinances Judicial Proceedings Parliamentary Proceedings Ministerial Proceedings Local Government Municipal Government Private Franchises Ecclesiastical Relations Diplomatic Relations Foreign Possessions Aliens and Jews Forests and Fens Works and Mines Revenue and Taxation Feudal and Customary Tenures State of Society Industry and Commerce History of Prices Manorial and Agrarian Economy Army and Navy Mint and Exchange Royal Household Natural History Archaeology Genealogy Topography Archive Economy  etc.

APPENDIX X. (*continued*). II. LATER RECORDS, STATE

Title	Form and Extent of Publication	Production and Distribution
1. General works of Reference		
2. Lists, &c.		
3. Calendars		
4. Transcripts and Facsimiles		
5. Texts of Documents	Collections Single Works Periodicals	Official Enterprise Corporate   " Individual   "
6. Excerpts from Texts ("Source-Books")	Complete Editions Partial       "	National Interest Regional     " County       " Parochial    " Institutional "
7. Original Compositions	.	

PAPERS AND DEPARTMENTAL RECORDS.

Date of Publication	General Historical Subject	Special Historical Subject
Early Modern Works	Political Constitutional Social Economic Ecclesiastical Local Naval Military History	Judicial Proceedings (State Trials, &c.) Royal Commissions Commutation of Tenures and Franchises Agrarian Changes Local Government Ecclesiastical Government Ministerial Government Diplomatic Relations Royal Prerogative Justice and Police Poor Laws Civil List Revenue and Taxation Army and Navy Internal Defence Trade and Plantations Exploration and Emigration Chartered Companies Universities, Schools, and Charities Currency and Banking Crown Lands and Royal Household Works and Buildings Court Ceremonies Inventions Aliens History of Prices and Wages Biography Topography Maps and Plans Archive Economy  etc.





## PART II

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# THE DIPLOMATIC OF OFFICIAL HISTORICAL DOCUMENTS



## INTRODUCTION TO THE DIPLOMATIC STUDY OF OFFICIAL DOCUMENTS.

IT has often been remarked that the Public Records of this country are unequalled throughout Europe in number and historical interest. To this observation we might add that amongst our Records those of the Chancery itself would be found to be in the most perfect state of preservation. This being so it is at first sight a matter of some surprise that such scanty information is available respecting the characteristic formulas of the national diplomata, especially as many causes were at work during the mediaeval period of our history to stimulate professional and individual interest in diplomatic criticism<sup>1</sup>. But although the prerogative of the Crown and the welfare of the community were equally concerned in the purity and legality of the instruments which purported to issue from the early Chancery, it may at least be suggested that in too many cases no adequate scrutiny was applied to them.

The fiscal exigencies and the unabashed official corruption of the age will sufficiently account for many of these concessions. Moreover so far from being a presumptive object of distrust, a royal charter was something sacro-sanct in the eyes of mediaeval lawyers and officials. It is true that the hardy chronicler, in spite of a credulous acceptance (in the interests of his own house) of many impossible evidences of the royal favour, was capable of very shrewd reflections upon the character of the treasured muniments of a rival community<sup>2</sup>. At the same time there were no traditions of an old English Chancery to direct and stimulate these fitful essays. Thus it came to pass that the flood of diplomatic criticism which had its source in the New Learning of the Renaissance period and which was swelled by the religious controversies of the 16th and 17th centuries, found its natural course through continental channels. From that time onward English scholarship has toiled painfully in the wake of foreign science.

<sup>1</sup> Below, p. 185 sq.

<sup>2</sup> Below, p. 186 and Appendix.



Now and again a few specialists have dealt with diplomatic subjects, but even the antiquarian giants of the 17th and 18th centuries, Prynne, Dugdale, Hickes, Madox and their fellows, were but imperfectly versed in the canons of diplomatic criticism, first enunciated by the Papal curia at the end of the 12th century, and finally adopted by learned Europe six centuries later through the labours of the Benedictines. Then with the great revival of historical learning throughout Europe in the second quarter of the 19th century this country lost another opportunity of placing the systematic study of diplomatic documents upon a sure foundation. For in the place of the National Archives, first organized by the genius of Republican France and their fitting *annexe* in the shape of an *École des Chartes*, a government absorbed by party politics and complacently tolerant of the productions of its Record Commission was content with a wholly inadequate Repository under the charge of an ordinary establishment of the Civil Service. It is not surprising therefore that, with the distinguished exception of the sound but rather elementary official disquisitions of Sir T. D. Hardy, the subject of our insular Diplomatic continued to be wholly neglected down to our own time.

Of the revival of this study at Oxford under the scholarly influence of Mr R. L. Poole or of the brilliant contributions to the new learning made by Mr W. H. Stevenson and Mr J. H. Round it is unnecessary to speak here. Indeed there can be little doubt that the importance of the subject is fully recognized by the present generation of English historical scholars. There is indeed a growing feeling that our historians have been scarcely fairly treated in the matter of the provision of certain essential aids to diplomatic calculation. Bond's *Handy Book* is with us still, but we know its limitations, and in other respects this work must be supplemented by some foreign *Treasury of Chronology*. In the province of Biography, where notable advances have been made in recent years, it is almost incredible that we should still need a working list of Chancery officials. We possess an expensive work on the Great Seals of England, but the evolution of the Smaller Seals remains in utter obscurity. Most of all we lack a Formula Book based on some comprehensive system of diplomatic classification. Certainly the slight but useful handlists of the royal style compiled by Sir T. D. Hardy<sup>1</sup> and greatly improved by Mr W. de G. Birch<sup>2</sup> are not exhaustive. It is not more than two years ago since an interesting suggestion concerning an important change in the style of

<sup>1</sup> *Rot. Chart.* (Pref.).

<sup>2</sup> *Second Report of Index Soc.* 1879 (Appx. 2).

Henry II was made by a great French scholar<sup>1</sup>. We have seen from a recent communication concerning an eventful change in the first Mary's style<sup>2</sup> that a defective list may be a serious hindrance to the historian, and there can be little doubt that other discoveries could be made by patient investigation.

It is now generally accepted that some knowledge of this subject must be acquired by students of palaeography who are concerned with other than purely literary MSS. It might even be insisted that it is impossible to acquire an intelligent perception of the system of mediaeval official writing without a sufficient knowledge of the formulas and professional routine of the national chanceries. Again, it can scarcely be doubted that a knowledge of the appropriate formulas, technical terms and nomenclature found in official documents must prove of great assistance to the modern searcher or the transcriber. For one so armed the struggle with these palaeographical difficulties has been already half-won. Unfortunately few English scholars care to pursue the practice of historical method beyond the bare requirements of textual criticism; but when a student of historical Acts, though limited perforce to printed texts, is yet well versed in their diplomatic composition, the gain to him in point of interest and perception is quite remarkable. In both cases, however, native enterprise in respect of these original studies is discouraged by the lack of information and instruction above referred to. It is true that with an ample choice of foreign text-books the actual construction and innermost significance of the imperial or royal Acts, Papal Bulls, and notarial instruments, received and miraculously preserved in our own Archives, can be understood. In addition to these, many diplomatic forms of legal, ecclesiastical and mercantile documents can be sufficiently comprehended from the same bountiful source of information. But the continental expert has hitherto let the royal Acts of the English Chancery and their developments in the shape of curial and ministerial instruments severely alone<sup>3</sup>.

The student of native Diplomatic will find in the Anglo-Saxon and Anglo-Norman Charters, in the special forms of instruments under the Greater and Smaller Seals of the later Plantagenets and in the departmental procedure of the 16th and 17th centuries, types

<sup>1</sup> See below, p. 219.

<sup>2</sup> Cf. *E. H. R.* xv. 120.

<sup>3</sup> This was written before an opportunity had occurred of perusing the interesting essay of Monsieur E. Déprez. The value of the work done in this direction by Brunner, Déglise, Liebermann, Bémont and Aronius is already well known.

which he will seek in vain to define by recourse to the continental handbooks. It is as though a naturalist should attempt to identify the British *Fauna* with the species figured in some foreign catalogue. Thanks to the knowledge acquired through a scientific training many forms would be familiar, whilst others would merely present variations due to climate or environment. At the same time many more on either side would be unrecognizable. Yet in this case recourse to alien literature need not be had since scores of native handbooks are available. But with all our wealth of literature dealing with other subjects how few are the works devoted to the scientific aspect of English Diplomatic! In view of this obvious deficiency any serious attempt to fill the void by means of written descriptions or academic teaching may be acceptable. Possibly the latter method would seem for the moment more practicable than the former, but its beneficial effects cannot be regarded as being very widely distributed. At most half a dozen students yearly enjoy the great advantage of attending the admirable lectures given at Oxford in the best style of the foreign Universities, and perhaps another fifty derive more or less benefit from the very modest course of instruction provided in the Universities of London, Edinburgh, Manchester and Liverpool. But the gain from these valuable studies is for the teachers and students alone. The information acquired through their researches is not directly available to English students at large and is quite unknown to the still larger body of continental students who have long desired to possess a more adequate description of the insular diplomata. For example, in a recent number of a French review<sup>1</sup> the *doyen* of European scholars in these "auxiliary sciences" describes and discusses two *languettes* which he has observed to have been cut from the bottom margin of our 12th century writs; and yet in the following pages there will be found a description of these *languettes* with their diplomatic uses, which was written more than 12 years ago from notes and drawings of original specimens and which has served as the basis of successive lectures and for the exhibition of models to many generations of London University students.

Instances of this sort, however trivial in themselves, may serve as an excuse for an unwonted egotism in assuming that the desultory researches and unconventional teaching of 12 years may benefit a wider circle of post-graduate students. Perhaps the scope of the present essay will be sufficiently indicated by the classified Table of Diplomatic instruments printed in an Appendix. This presentment of the normal

<sup>1</sup> *Bibliothèque de l'École des Chartes* (T. LXVIII, p. 309).

diplomatic types which are usually recognized as variants of the Charter, the Writ and even of the Letter will be familiar to students of the continental manuals of the orthodox Diplomatic. This compilation is the product of much labour and consideration and it has naturally formed the basis both of the following sections of the present work and of the *Formula Book*<sup>1</sup> which may be permitted to serve as an Appendix of illustrative types.

The inclusion in this work of a section dealing with Record types which will be familiar to those who use the publications of the Record Commission and Rolls Series may perhaps require a better justification than the plea of utility. Whether the writer has made out a case for the serious treatment of these abnormal types must be decided by those who do not shrink from the perusal of the pages in which this obscure and doubtful aspect of the subject is discussed. Idle and unconvincing as such special pleading must always seem to the judicious reader, it may at least have the desired effect of drawing the attention of more competent investigators to an interesting and neglected subject.

At the same time it must be made clear that even in the legitimate sphere of diplomatic study the scope of the present attempt is strictly limited. It is needless to dwell, however briefly, upon the conventional aspects of the subject which have been stated at large in many foreign text-books and summarised for the benefit of English students in a singularly lucid sketch which is accessible to all<sup>2</sup>. For a like reason it has seemed unnecessary to introduce any detailed comparisons between the formulas of English diplomatic instruments and those of continental states. It will also be evident that the scope of the present work admits of no reference to the Scottish or Irish archives under the charge of separate government establishments and within the sphere of interest of national academies and native students. Finally the importance of several cognate studies such as Chronology, Sigillography, Numismatic, Linguistic, Biography, Topography and Archaeology, which in turn subserve the study of this auxiliary historical science, can only be recognized in a brief bibliographical note.

For the rest, the establishment and apparatus of the English Chancery cannot be adequately treated for a further reason which will be presently referred to. There remains therefore only the classification, definition and description of the several diplomatic

<sup>1</sup> See Preface.

<sup>2</sup> The essay by Mr R. L. Poole in *Cambridge Historical Teaching*.



instruments which issued from the royal Chancery or secretariat of this country or which are preserved amongst its diplomatic archives. Even these can only be treated in a desultory way, though a fuller treatment is invited by their historical interest. Indeed the only claim to a comprehensive method that these Essays can possess is based upon their exceptional range in point of date, embracing as they do types of the whole series of official instruments from the Anglo-Saxon Charter to the Sign Manual Warrant of our own times.

## THE ANGLO-SAXON CHARTERS.

### (a) *The Old English Chancery.*

WE shall seek in vain amongst the *Tabulae Curiales* of this country for an authentic list of Anglo-Saxon chancellors such as has been compiled for the contemporary history of the Continental chanceries<sup>1</sup>. The earliest description of such a native establishment dates only from the close of the reign of Henry I<sup>2</sup>, and even this reference has been taken to apply more especially to the court of the Norman duchy. Some twenty-five years later, the English chancery, as it then existed, appears as the clerical department of the all-powerful Exchequer<sup>3</sup>. Indeed beyond a natural grouping of the chancellor with the King's chaplains and with the clerks of the *Scriptorium* we have little direct evidence of his professional activity until the reign of Richard I, when royal charters are first authenticated in his name.

Far less, then, can we expect to find any positive mention of a chancery establishment under the Anglo-Saxon monarchy. And yet, not only does a royal chancellor, with appropriate notarial appurtenances, figure in certain charters of this period, but the office has been readily accepted and described by English antiquarians from Coke and Spelman down to our own times.

We should be, perhaps, prepared for such a view by the prevalent opinion respecting the transformation of the Old English handwriting through foreign notarial influences before the Conquest<sup>4</sup>. It is not surprising therefore that this opinion should include the establishment of an Anglo-French or Anglo-Norman chancery in which the new writing could be officially employed. It is possible, however, that modern historians have been misled herein by the assumptions of early chroniclers unversed in the rudiments of diplomatic criticism<sup>5</sup>. And yet the supposition was a very natural one. The foreign chanceries with all their pomp of chancellors, notaries, formulas and

<sup>1</sup> Cf. H. Bresslau, *Handbuch der Urkundenlehre*, I. 268.

<sup>2</sup> *Constitutio Domus Regis* (*Red Book*, p. 807).

<sup>3</sup> *Dialogus de Scaccario*, I. v.

<sup>4</sup> See below, Part III.

<sup>5</sup> See below, Appendix.

seals had, before the close of the 12th century, been brought into close and fruitful connexion with this country, and the system that men see in their own day they commonly assume to be applicable to an earlier age. It becomes necessary, therefore, to test the correctness of this prevailing theory of an Old English chancery and notarial system before we can consider the probable nature of the apparatus that actually existed.

Although the most discerning of our modern scholars would probably look askance on many of the Anglo-Saxon chancellors enumerated by Dugdale<sup>1</sup>, the existence of the office under the Confessor at least has not been seriously doubted, whilst the claims of other notarial officers who figure in the *Codex* have not apparently been investigated.

Three chancellors of the Confessor have been generally accepted, Leofric, Wulfwig and Regenbald, with his vice-chancellors Alfgeat and Swithgar. The first two of these appointments, however, are scarcely well authenticated. Bishop Leofric was, indeed, qualified to hold such a position both from his learning and his foreign education<sup>2</sup>, but the best authority for his specific title is found in the *dictum* of Florence of Worcester. Wulfwig, on the other hand, is precisely described as the King's chancellor in a contemporary charter<sup>3</sup>—but this proves to be one of the worst forgeries of the Church of Westminster.

The position of Regenbald, however, rests on much stronger evidence. He is circumstantially described as chancellor and as performing notarial acts in several charters of the reign and as the king's priest in others. In addition, he is incidentally mentioned as chancellor in Domesday Book. It may be found, however, that these notices will not bear every test of diplomatic scrutiny. Of the charters in which Regenbald appears as chancellor the greater number are gross forgeries of the Westminster type<sup>4</sup> and with these are swept away the notarial positions of Alfgeat and Swithgar. In one of the

<sup>1</sup> *Orig. Jurid.* p. 32 sq. The existence of the earliest of these reputed chancellors has not even the support of a spurious charter but depends on the assertions of Matthew Paris (*Hist. Abbat.* i. 32 sq.) and Ingulf. The tradition respecting the statutory chancellors of Ely, Glastonbury and Canterbury is derived from a similar source (Gale, *Scriptores*, III. 501; Spelman, *Gloss.* 109).

<sup>2</sup> W. Malm. *Gest. Pont.* 201.

<sup>3</sup> *C. D.* DCCLXXIX.

<sup>4</sup> *C. D.* DCCCIX, DCCCX, DCCCXXIV, DCCCXXV, DCCCXXVI. Of these the first is a typical Ramsey production and the second is obviously of continental origin. The original of the Ramsey charter is still preserved at Ilolkham and appears on inspection to be a later fabrication.

two remaining charters<sup>1</sup>, *Regenbaldus Regis Cancellarius* appears amongst the witnesses. This is the famous foundation charter of Waltham Abbey, a production which may remind us of the monastic forgeries of Ramsey. The real objection to this charter, however, lies in the fact that it is executed in the style of the Frankish chancery<sup>2</sup>. The other charter referred to gives Regenbald the title of 'cancheler,' but as this charter is contained in the 12th century *Codex Wintoniensis*, a work which abounds in affected archaisms and palpable anachronisms, we may perhaps consider that he is here designated by a post-Conquest title<sup>3</sup>. In the case of other charters in which Regenbald is styled *presbyter* only, it should be noticed that no notarial functions are ascribed to him. Most of these charters being admittedly genuine the distinction appears to be highly significant<sup>4</sup>. There remains the Domesday evidence. In the Great Survey, amongst several other notices Regenbald is once styled *Reinbaldus canceler*<sup>5</sup>, but it may be remarked that the title is a gloss, possibly contemporary, but interlineated in the MS. Doubtless Regenbald would have been styled chancellor by French official scribes after the Conquest<sup>6</sup>, just as he is so styled in the rubric of an Old English charter in a Cirencester collection<sup>7</sup>.

Besides these reputed chancellors, who may or may not have acted in that capacity under the Confessor, notices occur in the *Codex* of royal clerks exercising undefined notarial functions at an earlier date. An examination of their official status would, however, involve the question of the authenticity of a class of charters which are not worthy of serious discussion<sup>8</sup>.

<sup>1</sup> *C. D.* DCCCXIII, but this charter has been accepted by very high authorities, including Bishop Stubbs.

<sup>2</sup> It contains, amongst other witnesses various *consanguinei Regis*, two *capellani Regis*, a *pincerna Regis* and a *pincerna Regine*, two *dapiferi Regis* and a *dapifer Regine*, an *aulicus Regis*, a *palatinus Regis*, a *procurator Aule*; together with the quasi-notarial subscription *Hec ego subscripsi Swithar sub nomine Christi*. Finally in the text itself we meet with such terms as *shire*, *hundreda*, *placita* and *gelda* with the notorious exemption from all secular service declaimed with a *statuo ut*. This charter appears to have been composed on the model of *C. D.* DCCCX which is obviously a foreign forgery.

<sup>3</sup> *C. D.* DCCCXCI. But this is a vernacular writ to which the statement that Regenbald was present is appended as a memorandum.

<sup>4</sup> Cf. *C. D.* DCCCXCI—DCCCXIII, DCCCXVI, DCCC.

<sup>5</sup> *D. B.* i. 180 b.

<sup>6</sup> For a learned discussion of Regenbald's nationality and status, see Mr W. H. Stevenson in *E. H. R.* xi. 732 and Mr Round in *Feudal England*, p. 331.

<sup>7</sup> *Archæologia*, xxvi. 256.

<sup>8</sup> Cf. *C. S.* 4, 5, 6, 107, 268, 325, 365, 409, *C. D.* DCCCXV, DCCCXV and Bouquet, *Scriptores*, ix. 397. These notarial offices range in point of date from Ethelbert of Kent to Edward the Confessor and include such titles as *referendarius*, *graphio*, *cartigraphus*,



On the other hand it might not unreasonably be inferred that during the Anglo-Saxon period several great Churchmen held a position not very different from the modern conception of the office of chancellor, or at least that of chief of the chaplains who were also the King's clerks. A great historian has suggested that "the office held by Dunstan under Edred must have been very much like that of the later chancellors"<sup>1</sup>; but we are elsewhere reminded that the masterful bishop "has left, beyond a few lines of writing, the endorsement of a charter and the prayer put into the mouth of a kneeling figure in an illumination, no writings whatever<sup>2</sup>." All that we know of the lives of churchmen like Dunstan and Athelwold is perfectly consistent with this supposition, and yet they had neither the title of chancellor nor are they found to exercise the functions of that office in any credible *diploma*<sup>3</sup>. Again, Gisa, bishop of Wells, held a position not unlike that of Dunstan, Athelwold and Leofric for the purpose of the monastic forger<sup>4</sup>, and indeed his claim to the title of chancellor might seem to be as strong as that of Bishop Wulfwig. It will be observed, however, that notarial functions have not been definitely ascribed to a succession of office-holders, but in casual instances to a limited number of episcopal celebrities. In these and in other cases, referred to below, it is quite possible that the acts ascribed to notable churchmen have no special significance. None the less these incidents contrast unpleasantly with the usual simplicity of genuine diplomata. We cannot dismiss the suspicion that the presence of these official witnesses may have been regarded as an additional proof of the authenticity of certain charters. The instruments under consideration are, it is true, of varying merit.

*scholasticus, notarius, subdiaconus* and plain *presbyter*. Of these, the credibility of the earlier titles is not enhanced by meeting with such an expansion of "*Hocca graphio*" as "*Hocca comes*," "*Graphio comes*." The title *presbyter* is of course unobjectionable unless it is connected with a notarial subscription such as may be chiefly found in Crowland forgeries.

<sup>1</sup> Stubbs, *C. H.* (1891), I. 380 n.

<sup>2</sup> *Memor. of St Dunstan* (Rolls), p. cix. Even these exceptions might have to be abandoned.

<sup>3</sup> Athelwold is credited with the education of a courtier (W. Malm. *Gest. Pont.* p. 165). A definite assertion with regard to his official position is made by the Rolls editor of an early Cotton MS. (*Anglo-Saxon Leechdoms*, III. 417), who, on the strength of an Old English expression regarded as the equivalent to a secret enrolment, suggests that the Bishop held the office of Keeper of the Rolls to King Eadgar. Unfortunately the word in question does not appear to bear this meaning ("*Newminster*" in *Hants Record Soc.* p. xii). It is true that Athelwold is termed a *secretis noster* in an Ely charter of 970, but this (in its Latin form at least) is a grotesque forgery (*C. D.* DLXIII). The phrase is more familiar to us in 12th century works although it is of greater antiquity.

<sup>4</sup> Cf. *C. D.* DCCXI and DCCCXVI. He is usually regarded as a "chancery clerk."

Some are obvious forgeries, whilst others have many claims to be regarded as authentic.

In most cases the quasi-notarial formula in question amounts to the statement *Ego, A. B., hanc cartulam dictavi*<sup>1</sup>, and the verb in itself is doubtless unobjectionable, equally with such variants known to the *Scriptorium* as *depinxi, titulavi, notavi, composui*, &c. Apart from other suspicious circumstances, none of these phrases would be likely to arrest our attention, as for instance would be the case with the formal notarial subscription of continental origin which may occasionally be found in the pages of the *Codex*<sup>2</sup>. It has also been fairly argued that even the most florid of these distinguished subscriptions are merely intended to denote a privileged style or an appropriate sentiment, whilst in most cases perhaps we may find no deeper motive than a scribe's conceit<sup>3</sup>.

A like explanation might be given of those graphic indications of sealing which have also been a source of difficulty. It is indeed by no means inconceivable that many high ecclesiastics actually impressed their signet rings, and we know that such rings might bear as a device a cross exactly resembling that drawn by the scribe's pen<sup>4</sup>. Again we have to reckon with the fact that within a few years of the Norman Conquest it was assumed that particular subscriptions might be distinguished by an autograph cross indicating the actual presence of the witness<sup>5</sup>.

Finally there are cases in which the initiative is taken by the King himself, who commands a charter to be composed or innovated, and there are other cases in which the notables present join in the command<sup>6</sup>.

Lastly there are certain circumstances of time and place and execution of charters that may be looked upon as notarial artifices.

<sup>1</sup> Cf. *C. D.* DCLXXXIV, MCCXCVI and Bouquet, *Scriptores*, XI. 655.

<sup>2</sup> Cf. *C. S.* 661 with the formula *Ego quoque Reinardus peccator interfui et notavi atque subscripsi*.

<sup>3</sup> For the well-known practice of "ringing the changes" on the conventional phrases by way of producing a jangle of "*cons*" and "*avis*" cf. *C. D.* DCCLXIII, DCCLXXI, DCCLXXIV—DCCLXXVI, DCCLXXX, DCCLXXXI, DCCLXXXVII, MCLV, MCXCV, MCCXI, MCCLXXXIX, MCCXCII, MCCCIX, MCCCX, MCCCXXXII.

<sup>4</sup> There is also a formula which may refer to the actual use of the pen by individual witnesses viz. *Signum sancte Crucis propria manu scribendo firmavi*, cf. *Archæologia*, XVIII. 18.

<sup>5</sup> Cf. *Somerset Arch. and N. H. Soc.* vol. XXII. p. 114. In this case the bishop (Gisa) was certainly cognizant of the Old English practice.

<sup>6</sup> Cf. *C. S.* 592, Bouquet, XI. 655 and *C. D.* CCCIV, DCLXXXVI, DCCXXXVI, MCXCI, MCXCVI, MCXCVII, MCCCIV, MCCCIV, MCCCIV, MCCCVIII, MCCCXVI.

The motive is doubtless to be found in a desire to obtain some official or public testimony in favour of a particular charter. *Actum publice*<sup>1</sup> may be taken as the key-note of these expressions. The phrases *In palatio regio*<sup>2</sup> or *astantibus*, &c. may be attributed to the same motive; but these purely foreign ceremonial adjuncts are extremely rare amongst Old English diplomata. Far more frequent are notes of time and place assigned to public assemblies which, though frequently betraying the workmanship of an over-anxious fabricator, are in themselves consistent with the received traditions of the primitive age of diplomatic criticism in this country.

The usual form of these excrescences is that of a supplementary narrative of the formalities which accompanied or symbolized the delivery of seisin in a primitive age. When a record of this ceremony was regarded as desirable, a convenient position for a pious interpolation could be found in the usual comminatory clause or "Sanction." The charter having been executed (with many circumstances of time and place) those present take part in the further ceremony which is performed in the church benefited by the grant. Here the charter, or the grantor's helmet, or his hand are laid upon the altar, the presiding churchman speaks the words of the "Sanction," and the audience murmur *Fiat, Fiat*, or *Amen*<sup>3</sup>, a formula which perilously resembles the *Apprecatio* of the continental chanceries. In one remarkable case the ceremony is associated with a feast<sup>4</sup>.

As with the royal chancellor or notary, so with the kingly seal. The existence of neither can be proved from the evidence of authentic diplomata, and yet all our authorities are agreed that the regular sequence of the Great Seals of England dates at least from the reign of the Confessor. At the same time it would be found that an earlier doctrine has been already discredited. Few learned dissertations have been more trustfully accepted than the famous description by a great English antiquary of the royal Seals affixed to certain Old English charters preserved by the church of St Denis<sup>5</sup>. Even to the present day these portentous survivals of an insular notarial system figure in official catalogues and are reproduced in diplomatic texts without the slightest reservation<sup>6</sup>, although the searching tests of

<sup>1</sup> C. S. 109.

<sup>2</sup> C. D. DCCLXXIX.

<sup>3</sup> C. S. 22, 27, 39, 125, 131, 154, Matt. Paris (Rolls), vi. 30, *Hist. Abingdon* (Rolls), i. 70, and cf. the observations by M. L. Delisle on a similar observance in *Bibl. de l'École des Chartes*, LXVIII. 313.

<sup>4</sup> C. S. 235.

<sup>5</sup> *Arch. Jo.* XIII. 356.

<sup>6</sup> Since this was written the most suspicious of the St Denis charters have been withdrawn from the regular series in the *Archives nationales* and are exhibited and described

diplomatic criticism have proved their utter falsity<sup>1</sup>. After this it is needless to discuss seriously the once burning question of the authenticity of the leaden Seal of St Augustine<sup>2</sup> or that of King Coenwulf<sup>3</sup>; but these things should be remembered when we approach the question of the Great Seal of the Confessor. Let us therefore approach that question cautiously.

It has been previously suggested that the instances of the exercise of notarial functions by reputed chancellors and vice-chancellors during this period are of somewhat doubtful authenticity, and this criticism would necessarily include the use of a seal. On the other hand, the use of a signet by Anglo-Saxon notables<sup>4</sup> and the well-known foreign proclivities of the Confessor should make us slow to deny the possibility of the use of a "seal of majesty" for certain purposes during his reign. It is perfectly possible that at any moment a genuine seal of this king, duly attested in an unimpeachable charter, may come to light; but at present we can only deal with the evidence of the existing specimens. These have been arranged and described with great care and precision by official experts who, very properly, have not discussed the question of their authenticity at all. Altogether there may be nearly a score of these seals which are evenly divided between the collection in the British Museum<sup>5</sup> and the muniments of Westminster Abbey<sup>6</sup>. One specimen is in the possession of the Earl of Winchelsea<sup>7</sup>.

Of the above specimens none of those in the British Museum collection are attached to true diplomata. Three are attached to writs, of which one is admittedly, and another obviously, spurious. Those that are detached must remain an unknown quantity. In the case of the Westminster collection the only charter, bearing a pendent seal, is

*quantum valeant*. As recently as 1906, however, the famous seal of Offa appeared on a printed circular announcing the publication of a learned work.

<sup>1</sup> Mr W. H. Stevenson in *E. H. R.* vi. 736.

<sup>2</sup> *Hist. Mon. St Aug.* (Rolls), p. 122, cf. below, Appendix.

<sup>3</sup> *Archæologia*, xxxii. 449.

<sup>4</sup> *Archæologia*, x. 232, xviii. 12, 40, xx. 479. The well-known instance of King Ethelred's writ under seal has suggested the employment of a signet or privy seal rather than a pendent "seal of majesty" which no one has yet ventured to refer to such an early date. The suggestion is an ingenious one, and the point is deserving of further attention in view of the continental analogy of the *annulus*. On the other hand the Charter referred to comes from a source (*Textus Roffensis*) which, however respectable, is not above suspicion; whilst we have in the case of the Westminster Charter (*C. D. MCCXXIII*) bearing the *annulus* of Dunstan an undoubted forgery.

For another possible analogy with the continental practice cf. below, p. 170, n. 5.

<sup>5</sup> *Brit. Mus. Cat. of Seals*, Ibid. Facs. of *Anglo-Saxon Charters*, Vol. IV.

<sup>6</sup> *Ordinance Facs.* Part II.

<sup>7</sup> *Ordinance Facs.* III.; *Monasticon*, i. 293.



a notorious forgery<sup>1</sup>, whilst the rest are merely writs to which the seal is attached by what French experts neatly term a *simple queue*<sup>2</sup>. The Winchelsea charter is another admitted forgery.

The well-known allusions in Domesday Book<sup>3</sup> to "charters" under the seal of the Confessor are found when carefully examined to amount to very little. Read in a general connexion, these notices may be classified as follows:

1. Cases in which testimony is made of the King's writ under seal, whether issued by the Confessor or by the Conqueror.
2. Cases in which testimony is made of the seals of both these kings or of either of them.

It will be noticed, however, that the production of these writs and seals is usually directly connected with questions of disputed investiture, and that they are regarded as evidences of an identical value. One formula in fact may be expanded as follows: *Homines dicunt nunquam se vidisse brevem Regis, vel sigillum, vel hominem (liberatorem, nuncium, legatum) qui, ex parte Regis, N. de hoc manerio saisisset*.

It is not altogether clear whether *vel* is used here disjunctively, but apparently the mention of any one of the above agencies for livery of seisin will include the others<sup>4</sup>. We may suppose that the King's writ, with the "seal of majesty" attached, was usually produced in the County Court by a royal messenger<sup>5</sup>.

The real value of these references does not lie wholly in the evidence of the existence of Edwardian sealed writs at the date of the Domesday inquest. The jurors themselves could scarcely have distinguished between a genuine example of these instruments and an arrant forgery<sup>6</sup>, or at least an irrelevant instrument in the shape of

<sup>1</sup> *Ordinance Facs*. Part II. No. 18. C. D. DCCCXXV.

<sup>2</sup> Cf. below, p. 218.

<sup>3</sup> Cf. *D. B.* I. 36, 39, 47 b, 50, 59, 60 b, 62, 78 b, 141 b, 154 b, 169, 197, 208, 218, 238, 241 b, 298, 373 b, 374, 375; II. 176, 195, 208, 270 b, 310 b, 409, 413.

<sup>4</sup> It would seem that the references in Domesday Book to a charter (*concessum*) in distinction to a writ are too indefinite to convey the sense of a grant preceding livery of seisin.

<sup>5</sup> On the other hand in certain cases livery may have been given by a symbolic ceremony which made the writ unnecessary. So too we read in *D. B.* I. 154 b of *Pax Regis manu vel sigillo data*, where *vel* is apparently used disjunctively. Attention may be drawn, in this connexion, to the interesting notice in a Frankish capitulary of the 8th century of a *consuetudo* which reminds us of the ancient system of issuing writs under seal by the hands of the Usher of the Exchequer. Here the customary service *Sigillum et epistulam prendere* is associated with *vias et portas custodire* (*Capit. gen.* (783), c. 17, ed. Pertz, III. 47).

<sup>6</sup> Thus although we read in the Survey (I. 78 b) that King William caused the church of Shaftesbury to be re-seised of certain lands "*quia in ipsa ecclesia inventus est brevis cum sigillo Regis Edwardi, precipiens ut ecclesia restituerentur*," we cannot accept this statement as conclusive. Even as late as the reign of Henry VIII the local jurors in a royal inquest accepted as evidence of a monastic title a Charter of Henry I which is an obvious forgery of the reign of Henry III (*Hist. S. Petr. Glouc.* (Rolls), II. 187).

a conventional vernacular writ without the pendent seal<sup>1</sup>. But can we suppose that men who must have lived under the Confessor's rule were uninformed on this point: that they would have accepted the evidence of a sealed writ of the Confessor, even though no such system of authentication was in use during this reign? This would seem at first hard to believe: yet before we are justified in basing any conclusions upon this Domesday evidence it would be necessary to investigate every case in which the Confessor's seal, apart from his mere writ, is alleged. These cases moreover are not only few in number, but usually associated with churches of indifferent repute; whilst it is after all conceivable that local jurors, even if they possessed this diplomatic knowledge, would have hesitated to denounce these pious presentments of the saintly king as impudent forgeries. Again, accustomed already to the use of royal seals they would naturally assume that the practice was one of immemorial antiquity. At the same time it may be readily admitted that in the existing writs under the Confessor's seal and the texts of others that have not survived, as well as in the allusions of the Domesday inquest, we have evidence of a very different kind from that furnished by the isolated notices of Old English pre-historic seals above referred to. Indeed the general conclusion as to the existence of a Great Seal of the Confessor might seem to be amply warranted by this evidence. The statement of the case, however, requires certain qualifications and amendments.

In the first place the size and colour and attachment of the seal itself are matters of great consequence, and many of the existing specimens scarcely fulfil the conditions which might be required herein<sup>2</sup>. In one respect indeed they are admittedly deficient, that is to say in the precautions taken for due attestation. The *Signum manus* of the Old English diplomata was not verified by a notarial certificate or by a royal seal<sup>3</sup>. It should be remembered, however, that the subscriptions used in the Anglo-Saxon system are far more

<sup>1</sup> Cf. the case of the Abbot of Abingdon before the County Court in *D. B.* i. 59, *Chron. Abendon.* i. 477, and the naive admissions made by the chronicler (*Chron. Abb.* ii. 2, cf. ii. 126).

<sup>2</sup> A noticeable feature of the existing sealed writs of the Confessor preserved by the Church of Westminster consists in the fact that the seal in several cases is affixed transversely to the parchment label or "tag," and the same peculiarity is observed in the case of later instruments in favour of this church which are of more than doubtful validity (cf. *Add. ch.* 11205 and 19581; *Cott. ch.* vi. 3). It has of course frequently been pointed out that mediaeval forgers were able to affix a genuine seal to a spurious charter with slight risk of detection (cf. D'Anisy, *Chartes de la Basse Normandie*, Intro. p. 9, and *Formula Book* No. 18).

<sup>3</sup> The *Signum manus* is in itself a seal and has outlasted all other forms of verification.

elaborate than those that are found in continental charters. Moreover, the spirit of the Old English system is favourable to publicity such as would be secured through the ratification of these instruments in the national council. Thus an official attestation by palace officers, a royal monogram and seal, and a notarial subscription were neither necessary nor appropriate.

It is true that the act of sealing is mentioned incidentally in the subscriptions of both the earlier and later Anglo-Saxon periods<sup>1</sup>; but we have already been prepared to make considerable allowance for mere flourishes on the part of learned scribes. Moreover we are perhaps justified in suspecting that this formula has been interpolated by a later forger with the intention of strengthening the authenticity of the grant<sup>2</sup>.

It is well known that historians, in the 17th and 18th centuries, at least, have regarded such expressions as seriously intended to indicate the attachment of an actual seal. Mediaeval writers, however, were in most cases better informed on this point than has been generally supposed. Even the pseud-Ingulf thinks it politic to insist that seals are not found attached to Old English charters. The author of the history of St Augustine, Canterbury, is still more explicit. The absence of seals, he tells us, need not surprise us, since a rude and barbarous nation recently converted to Christianity would prefer the use of the Holy Cross. Therefore (he continues) except in the case of Cnut, himself a foreign conqueror, we find no royal seals in use before the coming of the Normans<sup>3</sup>.

Again, the Ramsey chronicler, who delighted in reproducing fanciful subscriptions, explains that the simplicity of an earlier age had no use for the modern device of the seal<sup>4</sup>.

Enough has been said to make it clear that it is not our purpose to deny the possibility of the use of a royal seal under the Confessor. In the first place, however, it is necessary to distinguish between charters and writs, between instruments containing a sealing clause and those which do not indicate that the seal was affixed, and then between suspicious and apparently authentic documents. The mere fact of the existence of seals during the Anglo-Saxon period does not immediately affect the question at issue. The discovery of many fresh examples would not throw any new light upon the subject, unless

<sup>1</sup> Cf. *C. S.* 581, *C. D.* DCCCXI, and above p. 167.

<sup>2</sup> Cf. *Cart. Rames.* (Rolls), II. 58.

<sup>3</sup> *Hist. Mon. St Aug.* (Rolls), p. 118; cp. Hardy, *Rot. Chart.* p. xxviii.

<sup>4</sup> *Chron. Rames.* (Rolls), *Annals of Burton* (*Ann. Mon.* I. 183), p. 65, and below Appendix.

these were "seals of majesty" correctly attached to unimpeachable charters. For although, as we have seen, a few original writs bearing the Great Seal of the Confessor are known to exist, together with other writs from which the seals have apparently become detached, no genuine charter composed in the Old English diplomatic formulas and authenticated by such a seal can be produced.

The importance of the above distinction between sealed charters and writs will be presently apparent<sup>1</sup>, but it may be stated at once that this distinction presents a new view of the origin and use of the Old English and Anglo-Norman "seals of majesty."

It is perhaps unnecessary to make any difficulties with regard to the use of a pendent "seal of majesty" in this country. That such an ingenious device should have apparently originated in the English court which was destitute of any notarial establishment or traditions and which is supposed to have derived its diplomatic formulas from continental models would certainly seem to be a remarkable fact. For although the Frankish chancery had reached a high state of development, including the habitual use of a seal, long before the days of the Confessor, it did not adopt the pendent seal for at least another generation<sup>2</sup>.

But apart from the tardy adoption of this device by the French chancery, it should not be forgotten that specimens of each of the three methods of sealings henceforth practised can be found in several provinces of north-western and southern Europe from the beginning of the 11th century or even earlier. Here we can see the pendent seal in the shape of the Papal and Carolingian *Bulla* and the Seal of majesty in wax affixed to French and German diplomata "en placard." The third form of sealing, and that which alone is found in the case of Anglo-Saxon diplomata, namely a seal pendent by a strip cut from the bottom of the document, may be seen in many instruments composed in the courts of the north French princes from the 11th century onwards<sup>3</sup>.

Here then we have ample precedents for the practice of sealing

<sup>1</sup> Below p. 201.

<sup>2</sup> Giry, *Hist. de Diplomatique*, p. 639 sq. It will be noticed that French writers regard this question of priority of invention with a sober equanimity. On the other hand the evidence of early diplomatic relations between the Anglo-Saxon kingdom and the Norman Duchy is accumulating, whilst the analogy of the diplomatic procedure in respect of the Frankish and Anglo-Norman inquest is worthy of much closer attention. At the same time we must remember that the execution of the Anglo-Norman coinage "has no sharp line of demarcation" from the Anglo-Saxon models, whilst the latter coinage "owes nothing whatever" to the continental duchy (*Catalogue of A. S. coins in the British Museum*, II. xciii).

<sup>3</sup> Giry, *Hist. de Diplomatique*, p. 637.



which most people believe to have been employed in the well-equipped court of the Confessor which presents us with so many imitations of continental officialism.

The actual existence of this practice may still remain with the few a matter of opinion, but for the present it is enough to have taken exception to the sealed "charter" of this period. The credibility of a sealed writ, even if (like the older Merovingian forgeries) it possessed no clause announcing sealing, may remain an open question, for there is a diplomatic gulf fixed between the Anglo-Saxon "Farewell" and the Anglo-Norman Attestation.

The Old English royal seal therefore presents a real difficulty to the student of English diplomatics. The difficulty, however, is one which should be frankly faced. Whether the Anglo-Saxon diplomata needed to be sealed at all; again, why no announcement of sealing is found in the texts of genuine examples; why writs only are sealed and not charters; why some writs are sealed and not others; finally, why these sealed writs are so closely associated with the Church of Westminster<sup>1</sup>; are questions which invite a full and partial examination. Meanwhile a simple solution of the problem may be suggested.

If the derivation of the form of the post-Conquest writ from an Old English model<sup>2</sup> can be demonstrated, does it not seem probable that in the latter we have only an intelligent anticipation of the Anglo-Norman practice? At least we must dismiss the Old English charter from the case and concentrate our attention on the future writ, in connexion with which we have new diplomatic requirements which invite, even if they do not demand, the use of a new emblem of attestation. On this showing the sealed "charter" is at most a writ which was sealed or not at pleasure, and its later development appears to accord with this theory, for within a century of the Conquest it is still difficult to distinguish a charter from a writ, and before another century has elapsed the writ has finally ousted the charter from its diplomatic pre-eminence<sup>3</sup>.

Next to the existence of some apparatus for the composition and execution of a charter *secundum artem notariam*, we should look for some evidence of the registration of such instruments, or, at least, for

<sup>1</sup> Examples, however, occur in connexion with other churches, *e.g.* Bury and Exeter. Matthew Paris assures us that the statement that seals were not used by Anglo-Saxon kings is proved to be false by the discovery of King Edward's seal (? *matrix*) at Westminster (*Gesta Abbat.* i. 151). For an exposure of the Westminster methods, cf. *Crawford Charters*, pp. 88-102.

<sup>2</sup> Cf. below, p. 208 sq.

<sup>3</sup> Cf. below, p. 214.

their preservation in a suitable repository. This requirement seems to have suggested itself to the 12th century forgers of Old English "land-bocs," but, as we have already seen, there is no precise mention of any such provision in authentic diplomata of the pre-Conquest period<sup>1</sup>, although it is well known that the practice of preserving vernacular conventions in triplicate is referred to in Old English MSS. dating from the 10th century<sup>2</sup>.

It may perhaps be asked, "What then is left of the outward signs of an Old English chancery?" The answer must be that, in spite of the rejection of foreign formulas and later symbols, there is abundant evidence of the existence of a highly developed style of diplomatic composition. Just as the Old English scribes were unquestionably the equals if not the superiors of their continental brethren in mere penmanship, so they appear to equal advantage in respect of the regularity and precision of the formulas which they have made their own. None the less it is only reasonable to suppose that some system was adopted to facilitate the proper composition and the due execution of an Old English charter, but of such a system we possess only a few slight indications. It is true that certain writers have made no difficulty at all about the matter. "During the Anglo-Saxon era charters were prepared by professed scriveners or notaries and read aloud in some place of common resort<sup>3</sup>." Possibly a class of professed scribes existed in Anglo-Saxon times, but there is no evidence whatever that their services were requisitioned for composing royal charters<sup>4</sup>. The truth is that we have scarcely any information at all concerning the *Schriftwesen* of the Anglo-Saxon period. What little we know points to the conclusion that the art of writing, like every other branch of learning, was directed by the Church, and was practised almost exclusively in houses of religion<sup>5</sup>. The wandering scholar had not yet made his appearance in England, and speculations as to the extent of the culture disseminated by the great northern schools are futile in the face of the confessed *ignorantia literarum* prevalent in

<sup>1</sup> Cf. *C. D.* DCCCLV, DCCCXXXII, *Chron. Rames.* p. 172, and above p. 14. On the other hand we have a few such general notices as that seen in *C. S.* 421, which appears to be genuine. For the myth of the registration of Anglo-Saxon Records, cf. Ayloffe, *Calendars*, p. xiii.

<sup>2</sup> This custom is connected with the muniments of certain churches, e.g. Canterbury and Worcester.

<sup>3</sup> Hardy, *Rot. Chart.* I. xxviii.

<sup>4</sup> Hickes, *Dissert. Epist.* p. 46. Cf. Matt. Paris (*Chron. Major.*), III. 438.

<sup>5</sup> Cf. Heming, *Cartulary*, I. 265, citing a grant of land made to a monk on the condition that he should write all the books of the church. The same writer's reference to *notariorum carte* may be regarded as a general expression.

court circles from the time of Beda. It was not till the end of the 11th century that sovereignty was graced by anything approaching a clerical establishment, and another century had elapsed before every lordling had his chaplain or clerk, his *camera* or *gardaroba*<sup>1</sup>. In the meantime the nation's writing was undertaken by its spiritual directors. It is needless to dwell upon the all-reaching influence of the Anglo-Saxon Church which pervades the public acts and councils of the nation. The fact remains that whilst for the laity "the common memory was a sufficient archive," the religious found their account in the formal registration of their privileges. So it had been from the time of Beda, and a new impulse was given to the practice by later reasons of state. Perhaps we do not always sufficiently realize that practically the whole existing bulk of Old English charters has been both made and preserved through the agency of the Church. The lay grantee was either a "man of straw" who obtained a collusive grant, or a worthy "minister" of the Crown (whose corpse and lands were sure to come the Church's way at last<sup>2</sup>), and the Church was there to make charters for them both<sup>3</sup>.

This is a view which at least simplifies matters considerably. The motion for a grant or confirmation or innovation of charters must proceed from the Church itself, and every church possessed the requisite knowledge for the preparation of the necessary instrument. This would be dictated by the respective bishop or abbot or some learned subordinate, and written on the spot, which was often enough the church itself, on the occasion of a royal visit. Then it was presented for formal ratification by the king and his *optimates*. Thus the services of a royal chancellor, chaplain, or notaries could be well dispensed with.

This is not a purely conjectural procedure. We find indications, slight it is true and unvouched, but very suggestive, of the actual process in question. It is a "notarial" subscription of Abbot Brightric of Malmesbury which deposes that, after diligently reading and scrutinizing the charters of his church, he has dictated a certain charter, written the same with his own hand, and subscribed it as witness among his peers<sup>4</sup>. Even so did Bishop Heaberht of Worcester, when he saw his church being unjustly despoiled of certain lands at the instigation of King Bertwulf of Mercia, proceed to the great

<sup>1</sup> The spurious references to household chaplains acting in this capacity to be found in the Welsh "Triads" really belong to a much later period.

<sup>2</sup> Cf. *C. S.* 244.

<sup>3</sup> Cf. *Chron. Rames.* p. 13.

<sup>4</sup> Cf. *C. D.* DCCCXVII, and Hicks, *Dissert. Epist.* p. 47.

council at Tamworth, taking with him the elders of his church and its ancient charters, and then and there obtained a favourable judgment, dictated by him in the terms of a charter for which he fined to the king and queen in horses and rings and vessels of gold and silver<sup>1</sup>. Instances in point might be multiplied, and although the charters may be fabrications, the writers have at least unconsciously described the way in which the churchmen would have gone about their business<sup>2</sup>.

Is not this the key to the method of composing the Old English diplomata, which appear so unconventional to the student of the regular Continental forms? In this primitive age the grantee drew his own grant and obtained its ratification by his personal supervision and supplication, supplemented on occasion by a judicious offering. In a more sophisticated age he feed a royal notary, bribed a royal chancellor, and fined to the royal Exchequer, to a like end. The Old English royal charter is a religious and a local product. The handwriting is local, the language is local, the formulas are adapted by local scribes from academic models; the attestation only is official, inasmuch as the court by which it is ratified followed the king into the locality.

But this local aspect of a large number of charters which find places in monastic cartularies must not entirely supersede the wider view of the professional rather than official part played by the Church in the production of the Old English diplomata. These local efforts are reinforced or even supplanted on occasion by the professional intervention of an independent churchman; but all the same the general effect is in harmony with that constitutional scheme in which the Anglo-Saxon laws also have their place and which received its lasting form in a charter of liberties composed by a clerical leader from a local model on the altar of a London church.

### *(b) Old English Diplomata.*

For thirteen hundred years, since the landing of the Roman missionaries, we have possessed a stock of public diplomata unequalled in any other country, and during the last fifty years we have attempted

<sup>1</sup> Cf. *C. S.* 430, 731, 737.

<sup>2</sup> The charter of 799—802 which describes the production and emendation of an earlier charter is apparently genuine (*Aug.* II. 26. 27).



to bring the earliest of them together in a printed *Codex*. At no time, apparently, has the question of the sources of these diplomata been seriously considered. They are still, to the great majority of students, merely typographed abstractions of constitutional, economic or philological interest, to be taken as they are found, with such casual reservations as it has pleased a few inquiring minds to propound.

And yet, if the Old English diplomata form an important item in our scanty historical evidence for the pre-Conquest period, it might be thought that their authenticity was a matter of some moment. To base our historical arguments upon supposed facts or imaginary relations is, possibly, to argue from false premisses. We can repeat the statement for what it may be worth, we can estimate its value according to the probability of its form and the credibility of its source; but to accept it as Gospel without any scrutiny whatever, and to build upon this flimsy basis of fact a lofty superstructure of theory, is surely not a historical method that will commend itself to the inquiring student of the future.

The Old English diplomata which are thus presented to us in the pages of our printed *Codices* may be said to have been derived from two apparent sources. In one quarter, they are preserved in some ancient writing, and this written form, which may be either the original or a version thereof, is usually contained in a single sheet. Failing this original, there may be a later copy or abstract, which commonly bears an outward resemblance to its exemplar. If, however, as most frequently occurs, neither original nor apograph has been preserved, our text will be derived from a monastic entry-book, register, or cartulary, which may have been compiled at any time within eight hundred years of the date of the original instrument. Again, there are some cases in which none of the above sources are available, and we are dependent upon a modern transcript. Lastly, owing to the well known practice of presenting ancient charters for confirmation or for official inspection, numerous texts have been preserved in the rolls and registers of the Courts of Chancery, Exchequer, and King's Bench, and it has been suggested that, not infrequently, these enrolments furnish a unique or at least a preferable version of the original instrument<sup>1</sup>.

The second class of diplomatic texts comprises such as no longer exist in any ancient writing, but in a printed form which sometimes

<sup>1</sup> Mr W. H. Stevenson in *Engl. Hist. Rev.* xi. 737.

causes our gratitude to the bygone editors to be tempered by mingled curiosity and regret<sup>1</sup>.

To the misfortune of this unequal descent of our existing texts must be added that of their uneven distribution. It is perfectly obvious that we no longer possess the whole or even the bulk of the diplomata that were executed between the 7th and the 11th centuries. It is also to be inferred that what we do possess were scattered in irregular groups amongst the local repositories from which they have been rescued. In one period Winchester comes to the front, and in another Worcester. Wessex and Kent and East Anglia are fairly well represented; Mercia not so well, and Northumbria not at all<sup>2</sup>; but no volume of diplomatic evidence issues continuous and complete from any one source. We may be justly proud of the learned zeal of the cartographers of Rochester and Worcester; but one really perfect local collection would have been worth many times the joint result of their labours from the point of view of the student of English Diplomatic.

At the same time, we must be on our guard against pressing the conclusions based upon these statistics to their logical conclusion. It is premature to bewail the loss of a vast mass of Old English charters estimated solely by the *residuum* that has survived, without some further assurance of the necessity for their existence. Indeed, our limited knowledge of the occasions which governed these grants of "boc-land," or of privileges and immunities connected with its possession, points to a somewhat different conclusion. We are no longer compelled to suppose that book-land was the holding of all who claimed a several estate in the *Ager publicus*<sup>3</sup>. On the contrary, we are now well assured by a great legal historian that book-land was "a clerkly and exotic institution, and that grants of it owe their existence, directly or indirectly, to royal favour, and can throw no light, save incidentally, on the old customary rules of land-holding<sup>4</sup>."

This Old English customary procedure is perhaps the key to the puzzle of the missing charter. In the bracing atmosphere of this

<sup>1</sup> For instances of this class, and for the whole subject, see Kemble, *Codex Diplomaticus*, vi. Preface; Birch, *Cartularium Saxonicum*, i. Preface; and British Museum *Facsimiles*, iv. Preface.

<sup>2</sup> For Professor Liebermann's scholarly notice of some later Northumbrian diplomata, see below p. 225. For notices of early Celtic diplomata, see *Liber Landavensis* (ed. J. G. Evans).

<sup>3</sup> Cf. Prof. Vinogradoff's famous essay in *E. H. R.* VIII. 1.

<sup>4</sup> Pollock and Maitland, *Hist. of English Law*, i. 37.

native custom the "book" imported from the imperial or pontifical chancery may well have languished as an "exotic." That it should have gained such repute as led to its further propagation is really due to entirely extraneous circumstances, the exact force of which has not perhaps been as yet sufficiently ascertained. It might, however, be urged that it is not the business of the editor of a *Codex* to attempt an estimate of the value of the manuscripts which have been used for the purposes of his edition. Be that as it may, this very reticence may encourage a mere essayist to offer a few humble suggestions to future editors, a few useful hints to intending students—and foremost this:

The *Codex* (or by whatever other name the printed text of the Old English diplomata may be called) is not to be regarded as a finality. That is to say, we must be prepared to go behind the printed text in order to estimate the historical value of the materials which we propose to use. The *Codex*, in fact, is only a chronological register of diplomata brought together for convenience of reference. It does not (whether rightly or wrongly) make any serious attempt at diplomatic criticism. This is a matter that is designedly—we might almost say wilfully—left to the ability or taste of individual students, as though it were a matter which concerned the palæographer and the philologist alone.

Here, then, we have a view of the *Codex* which is instructive to the whole body of its students, the classification of its contents. This is a subject which we are apt to overlook in using the paged and numbered volumes of the printed text. We forget that, in order to effect our convenient chronological arrangement, the original codices have been, so to speak, cut up and pasted down. Thus we have lost sight of the antecedents of the collected charters, their local colouring, and their distinctive individuality. We may hastily scan page after page of the *Codex*, without being reminded of Heming or the *Textus Roffensis*, and even the blatant pseud-Ingulf almost passes muster in the crowd of minor forgers.

It is true that our *Codex* may be tardily furnished, like that of Kemble, with a partial key for the identification of the sources, but how many will use it, or would realize the meaning of its synonyms? How many students are accustomed to carry in their heads the equation, "Ad. 15350 = Codex Wintoniensis," the chief source for Winchester charters; or to distinguish from memory between the MSS. "Tib. A. 13," which, being Heming's cartulary, must be treated with respect, and "Faust. A. 3," "Claud. B. 6," "Bodl. Wood. i.," and "Vesp. B. 24," which, as they contain the respective collections of

Westminster, Abingdon, Malmesbury, and Evesham, should be used with considerable caution?

This question of classification therefore may be earnestly recommended to the attention of the student who has not the requisite skill to tell at a glance whether this or that charter bears a genuine aspect<sup>1</sup>. Thus equipped, he will "know his warranty" for the statements in the printed text, and he can take such further precautions as are needed by recourse to diplomatic criticism. It will be seen that this recommendation amounts to "starring" the several codices, just as individual charters have, to a limited extent and to a certain date only, been "starred" by the editor of our first *Codex*. The principle is perhaps more sound, as it is also far less arbitrary, than Kemble's method, since it applies to the whole period, and includes charters which were formerly unknown or at least omitted. Again, instead of condemning certain instruments at random upon evidence which is not stated, a thorough scrutiny is invited of every specimen which is intended to be used. Neither is the labour of identifying the several collections so great as might be thought. A full half of the contents of Kemble's *Codex* is derived from only a dozen famous cartularies, the residue being made up from original parchments, lesser registers, or printed versions.

It has been usually supposed that the authenticity of any particular charter is capable of proof by means of diplomatic tests. It cannot, however, be said that our experiments in this direction have been uniformly successful. A charter which conforms with all the laws of philology and all the rules of palaeography may still be proved a forgery by external evidence, if we have reason to suspect a forgery from its manuscript relations. For the purpose of a true diplomatic test, therefore, an appreciation of those manuscript relations is essential, and yet it is employed in very few instances.

It might indeed be objected that to proceed thus upon suspicion of forgery would be to prejudice the case. The truth is, however, that we have not yet arrived at an understanding even as to the diplomatic definition of a forgery. Time was when, during the sharp reaction from long centuries of childish credulity, charters were denounced as forgeries for the slightest inconsistency. Since then we have been passing through a fresh period of reaction, in the direction of the limitation and refinement of the term "forgery," until it has become an extremely hazardous matter to reject a charter at

<sup>1</sup> An attempt to refer the printed charters to their several codices without recourse to a key will be found a most instructive exercise.



all. Between the downright dogmatism of Hickes and the cautious methods of Kemble and Professor Earle there is perhaps room for a middle course, and that course will be safest steered by the light of diplomatic criticism.

But first there is a limit to our patience and our gravity, which hitherto each one has set for himself. Whether there is any profit in a discussion of a certain class of charters is a question which most people have answered in the negative, and yet the Croyland and Beverley forgeries are with us always<sup>1</sup>—in the *Codex*—and with them stand score upon score of kindred falsities which are accepted and used every day as historical evidence. Even the most valued sources are not always immaculate. The originals which have been perpetuated in facsimile include 11th and 12th century imitations of Old English characters and composition. The Worcester and Rochester books have preserved here and there a forgery as palpable as any of Crowland, whilst in comparatively respectable collections, such as those of Canterbury and Winchester, we are presented with whole batches of suspicious charters. As for houses like Abingdon, Malmesbury, Evesham, Glastonbury, St Edmunds, Bath, St Augustine's, Shaftesbury, Wilton, Sherborne, Peterborough, Chichester, and Chertsey, it is enough to say that wherever there is a motive to forge we may suspect a forgery.

This motive theory is indeed the vexed question which can never be answered to the satisfaction of all. By keeping it carefully out of sight, Mabillon and his followers were able to formulate a series of tests which, as Hickes truly observed<sup>2</sup>, would save almost every suspected charter from condemnation. And this cry has been raised once more in our own times: "Let us save something! No matter if the king is a wrong one, or the indiction, or if the witnesses are impossible; these are clerical errors which may be set down to the carelessness of a later scribe."

It has been strangely assumed by nine writers out of every ten that a forged charter is an original composition of a much later date than the period to which it refers. Therefore these critics have chiefly concerned themselves with a laborious search for trivial anachronisms; but in many cases in which there is a reasonable suspicion of forgery, the scribe has merely tampered with an original grant by way of

<sup>1</sup> The researches of Prof. Liebermann and Mr Stevenson have proved that some at least of the Croyland forgeries are of a much earlier date than the 14th or 15th centuries.

<sup>2</sup> *Antiq. Lit. Septentrionalis Praefatio*, p. xl.

interpolating a word or sentence in order to settle some disputed point which the grantor had unfortunately omitted to foresee<sup>1</sup>. In such cases when erasure or insertion were impracticable, a perfect model was at least available for the fabrication of an improved original<sup>2</sup>.

To detect these nearly contemporary forgeries by the test of handwriting alone is indeed a difficult task, and as a rule the official expert is wisely reticent concerning the precise period of an undated manuscript<sup>3</sup>.

With the existence of a considerable diversity of opinion as to the extent of the admissibility of a certain class of Old English charters as historical evidence, it is clear that no general standard of authenticity can be propounded. A number of more or less valuable rules of diplomatic criticism have been elaborated by English scholars from the time of Hickes<sup>4</sup>, but these have been employed in a very desultory manner. Such tests as the verification of the chronology, of the royal style and of the persons and places mentioned in Old English charters have been more frequently resorted to than the examination of the language which does not always accord with the assumed date or place of origin. The diplomatic tests connected with the phraseology and formulas of these charters have rarely been used in this country<sup>5</sup>. It is true that discrepancies in style such as the anachronistic flourishes in the subscriptions of the Crowland charters have been readily pointed out, and that brevity and simplicity are regarded as characteristic of authentic diplomata of early date; but the diplomatic method of scrutiny might be carried much further than this if the formulas in use at different periods had been even partially worked out. As it is, the editor who wishes to test the authenticity of particular charters is compelled to provide his own diplomatic apparatus. He cannot, in fact, ascertain the exact position of a few specimens belonging to a given period without a tedious

<sup>1</sup> Bolder attempts occur in the interpolation of whole charters in some text of repute, e.g. the grant to Medeshamstede, a 12th century insertion in the Anglo-Saxon Chronicle (Rolls ed. p. 52; cf. *C. D.* II. 46 and v. 2).

<sup>2</sup> Mabillon (Pref. i. vi.) gets over the objections that might be made to many apographs by the ingenious contention that many things are to be passed over in an apograph which would vitiate an original charter.

<sup>3</sup> This discretion has not been always observed, for a great official antiquary of the early Victorian period has described one of the most glaring forgeries in the whole *Codex* as "a magnificent and perfect specimen of ancient calligraphy."

<sup>4</sup> For these see the Prefaces of Kemble and Earle and the excellent summary by Dr R. L. Poole, *op. cit.*, and below, p. 184.

<sup>5</sup> A notable exception is to be found in the *Crawford Charters* (Napier and Stevenson).

examination of diplomata dated long anterior and subsequent to that period.

To summarize the principal rules that have been recognized in the modern study of the subject, we shall find that the occurrence of one or other of the following peculiarities may justify us in regarding an Old English charter with more or less suspicion: a later and, especially an imitated hand-writing; anachronisms and other discrepancies in the names or styles of kings and witnesses, dates, events and national usages; narrative Preambles, Expositions, Grants, Sanctions and Attestations; florid Preambles and Sanctions; rhymes and flourishes of every kind; notes of time and place and of historical events that are irrelevant to the business in hand; the dragging in of the names of celebrities as witnesses to a charter; barbarisms and archaisms that are out of date or over-done and an affected emphasis placed on vernacular idioms or synonyms; a penal clause, unknown in this country, and grants that deliberately omit to reserve the three-fold obligation<sup>1</sup>.

To this list, which might be enlarged<sup>2</sup> or emended without much difficulty, a few additions may be suggested from another aspect of diplomatic criticism; such as grants of liberties, privileges or immunities which may suggest a motive for the discovery of early documentary evidence in support of a disputed claim; the use of later constitutional terms in connexion with the above grants; the appearance of interpolations in the body of a genuine charter; marked irregularities of style and the use of the distinctive formulas of a much earlier or later period; the use of foreign phrases or formulas, especially in the Dating or Attestation clauses; a sequence of suspicious charters from a particular source. If we add to the above that all rhyming<sup>3</sup> and foundation charters, and most innovations of lost charters and confirmations may be regarded with suspicion, a by no means exhaustive or conclusive list of dubious diplomatic forms will have been suggested.

Again, it may be useful to suggest that, for the purpose of historical evidence, the Old English diplomata may be conveniently grouped in three divisions. Of these the first will comprise genuine charters whether originals, apographs, or entries. The second will

<sup>1</sup> For the suspicious character of exemptions from episcopal jurisdiction, cf. *Somerset Record Society*, Vol. 14, in the case of Muchelney.

<sup>2</sup> e.g. on the use of the future tense in dispositive formulas (Napier and Stevenson, *Crawford Charters*, p. 38).

<sup>3</sup> For rhyming charters, cf. Linkeisen, *Die Anfänge der Lehngerichtsbarkeit in England*, p. 43 sqq.

consist of palpable forgeries or documents that are too suspicious to be used without full warning of their doubtful character. The third division will contain apographs or versions which, though disfigured by certain anachronisms or discrepancies, may still be partially utilized for historical purposes.

With regard to the first of the above divisions it should be noted that comparatively few of the texts included therein have as yet been submitted to a close diplomatic scrutiny. Kemble himself did not mark the charters of the 11th century with any confidence or consistency, whilst we have no means of ascertaining the method adopted by him in sifting a mass of earlier charters which do not moreover represent the whole number that is now known to us<sup>1</sup>. A more accurate definition of this class would therefore be, "Charters the authenticity of which has not been seriously impugned."

It must not, however, be supposed that the elements of diplomatic criticism were propounded for the first time by 17th or 18th century scholars. Even in the 12th and 13th centuries monastic chroniclers could undertake to account for the miraculous preservation and opportune production of the ancient evidences of their churches' possessions, or to explain the absence of seals from an Old English charter by recourse to diplomatic arguments which have scarcely been sufficiently appreciated by modern scholars. The fact that the existence of this early knowledge of the subject has been hitherto ignored is perhaps a proof of the general indifference to the subject. The pseud-Ingulf's notions about the Old English handwriting and seals have indeed been frequently quoted to his disadvantage, whilst too much credence has been given to the romance of Battle Abbey<sup>2</sup>. These sources, however, might have been supplemented by the interesting disquisitions of Heming, Gervase of Canterbury, the monks of Evesham and Ramsey, Matthew Paris, and Thomas of Elmham. Even the allusions contained in early treatises such as the *Dialogus de Scaccario* and the *Constitutio Domus Regis* seem to have been generally neglected, and many others might be found amongst the Chancery and Exchequer compilations of the 13th century<sup>3</sup>.

<sup>1</sup> It will be found that Kemble starred about 300 out of 1000 charters, but the proportion of doubtful forms in the completed *Codex* would be considerably higher. The method employed by Professor Earle in his valuable and suggestive *Land Charters* must be regarded as a purely arbitrary system of classification.

<sup>2</sup> *Chron. de Bello* (1846), pp. 84 sq., 107 sq., 164 sq.

<sup>3</sup> See Appendix. This was written before the publication of the Oxford edition of the *Dialogus*.



At the same time it may be admitted that these early diplomatic essays do not take us very far. The sententious brevity of writers like Fitz Nigel and Gervase of Canterbury might indeed lead us to suppose that they knew more than they chose to impart, but in the case of less learned writers these *obiter dicta* may degenerate into idle gossip. We gather moreover from an anecdote of Matthew Paris that the prophets of the new science were not honoured in their own houses. The historian relates that in the reign of King John there appeared among the brethren at St Albans an enquiring mind in the body of one Alexander de Langley who had mastered the whole art of diplomatic composition. Unhappily this rare accomplishment turned the good monk's head. Intoxicated with the importance of the new learning, he became insupportable to his fellow-writers of the "scriptorium." In vain he was banished to the cloisters and flogged *usque ad effusionem sanguinis*. The diplomatic spirit could not be cast out. Then there was a verdict *Propter multas litteras insanire*, and Alexander died miserably, in chains, in the Abbey's cell of Binham, and was buried in his chains, a warning to all conceited and intolerant pedants<sup>1</sup>.

A motive for the preservation of Old English charters, as the earliest and most precious title-deeds of the churches' possessions, has been frequently and variously suggested. One such motive has been found in the necessity imposed upon churchmen after the Conquest to produce actual documentary evidence of title, and it has been added that such documents would have been furnished with seals in conformity with the new diplomatic practice. This theory which figures conspicuously in the narrative of the pseud-Ingulf is not justified by the actual facts. The supposed compulsion has possibly proceeded from a confusion of ideas induced by the famous inquisitions upon writs of *Quo Warranto* under Edward I, which apparently gave rise to a large, and hitherto unsuspected crop of later forgeries<sup>2</sup>. A more intelligible explanation of the anxiety of religious houses to be provided with copies of their ancient charters is to be found in the exigencies of the Exchequer routine which required the production of all charters of liberties under which exemption was claimed from imperial or local taxation. To this motive we may perhaps attribute the preservation of a considerable number of charters or confirmations of a later date which have survived amongst the "Ancient Deeds" in official custody, whilst

<sup>1</sup> *Gesta Abbat.* I. 266.

<sup>2</sup> Public Record Office, Transcripts of Deeds Various (Exchequer K. R.).

others again have been enrolled in such classes of Records as the Pipe Rolls and *Cartae Antiquae*. It is possible that the still more numerous enrolments in the Chancery by way of *Inspeximus* were chiefly due to the same official exigency. As the "oblations" and "fines" paid for the concession or renewal of certain privileges came to be recognized from the close of the 12th century as a valuable source of revenue, these instruments began to possess the importance of official receipts for the redemption of land-tax and other common assessments. But there remains a still more obvious and urgent motive for the preservation, discovery or renewal of these ancient diplomata in the litigious spirit of the post-Conquest period.

We have only to glance at the *ex parte* statements of these cases entered in monastic registers, like those of Worcester, Rochester or Peterborough, and still more explicitly described in monastic histories, like those of Evesham or Crowland, to realize the true position of affairs. Here we shall find, almost side by side, the text of an Old English charter and the narrative of the law-suit in which it made a conspicuous appearance<sup>1</sup>.

Following this motive theory still further backward, we are confronted with another problem.

We have learnt to regard the Anglo-Saxon "land-bocs" as having been granted equally to churchmen and to thegns; but if this is so, it is clear that a very large deficiency in respect of existing grants in favour of the latter class has to be accounted for. To suggest that, in the natural course of events, only the charters of the religious would have been preserved, is merely to beg the question. But even the premisses of this argument would need to be rectified. We are scarcely justified in assigning even the comparatively few lay-grants which survive to a distinct species. This is a matter which requires a good deal of discrimination. In the first case it must be obvious that these grants to the laity were preserved as the title-deeds of the church which claimed to be the grantee's heir. They were in fact needed to complete the chain of documentary evidence which was relied upon to secure the church's possessions from the rapacity of turbulent neighbours and the oppression or injustice of princely tyrants and their hirelings which form the constant theme of monastic narratives and diplomatic "Sanctions" alike.

A clue to the real nature of the earliest of these lay-grants is perhaps found in a remarkable passage of Beda's well-known letter

<sup>1</sup> Cf. *Heming's Cartulary* (ed. Hearne), I, 248.

to archbishop Ecgberht of York, in which the writer denounces the practice of obtaining grants of land by means of charters confirmed by the Witan for the purpose of founding religious houses which were only too frequently ill-regulated<sup>1</sup>.

We have indeed only to refer to the diplomata of the 7th and 8th centuries to see that the expressed motive of such charters was usually to benefit some church<sup>2</sup>. In these cases a grant of land is made to some lay notable, *ad construendum in ea monasterium*, a phrase that may almost be dignified by the term of a formula<sup>3</sup>. In these "land-boes" a reversion to the church is not always specified, though the pious motive is usually implied by the wording of the Preamble, Exposition and Sanction. Besides these actual grants to laymen, there are cases in which they are mentioned as having contributed to procure like concessions for churchmen<sup>4</sup>, who in most cases were the direct recipients of the royal bounty.

In the course of the 9th century, however, we find grants made to laymen (and now to thegns rather than to princes or earls) with growing frequency, till at length these may amount to a third of the whole number. This increase certainly adds to the difficulties of the subject. Hitherto these lay grants have constituted but a small percentage of the *Codex*, and, as we have seen, in many cases an ulterior motive is perceptible. But in these later grants no such motive can be perceived, whilst in many cases a very different motive is alleged. Moreover, we are not here concerned with wholesale forgeries, since the proportion of originals in this class of charters is quite remarkable. Again, instances occur in which lands thus bestowed on a layman do not seem to have been ultimately disposed of by the latter in favour of the church by which the charter was preserved, whilst in other cases such grants seem to have been resumed by the Crown<sup>5</sup>. It might also happen that a private deed or devise in favour of a church was disputed by the heir-at-law<sup>6</sup>. We must assume, therefore, that in this later period many grants to laymen were preserved by the churches as mere title-deeds<sup>7</sup>, without any immediate connexion with the pious dispositions of the original grantees.

<sup>1</sup> Ed. Smith, p. 309.

<sup>2</sup> Cf. *C. S.* 32, 58, 59, 60, 74, 77, 78, 85, 122, 146, 153, 154, 182, 197, 198, 202, 206, 209, 211, 218, 232, 244, &c.

<sup>3</sup> Cf. above p. 176 and *C. S.* 225, 230, 232, 274, 277, &c.

<sup>4</sup> Cf. *C. S.* 22 A, 58, 59, 142.

<sup>5</sup> Cf. *C. S.* 303 where the condition of faithful service and allegiance of the thegn is specified. Cf. also *C. S.* 247 and 248. <sup>6</sup> Cf. *C. S.* 256.

<sup>7</sup> Thus we read in the History of Ramsey (Rolls p. 13) that *Quaedam in archivis ecclesiae*

As a result of the above observations we have found that the distribution of the surviving Anglo-Saxon charters nearly coincides with the periods of paramount influence exercised by the Church and thegn-hood respectively, and that a due proportion of the grants made to each class in turn would naturally be found amongst the existing ecclesiastical collections. It is clear, however, that there is a missing link between the original "land-boc" and the later entry in some monastic register which records a private benefaction. Whether this link would have been supplied by a lost series of Anglo-Saxon wills and conventions is a question that could only be partially answered by an exhaustive enquiry into the origin and relations of the private diplomata of the 10th and 11th centuries.

(c) *Old English Formulas.*

The existence of distinct formulas in the composition of the Old English diplomata has been frequently noticed and a definite classification of these formulas has been more than once propounded. But how loose does this classification appear by comparison with the modern arrangement of the Continental types! In the first place the distinction between the Protocols, or official formulas which occur at the beginning and end of the charter, and the Text, or body of the instrument, is not indicated at all. Again, the omission of certain formulas which are found in Continental examples is accepted without comment, whilst the existence of others, though in a rudimentary or irregular form, has apparently been unnoticed.

Nevertheless it might be possible, by a slight modification of the existing arrangement, to bring the composition of the Old English formulas into close agreement with those of the Continental chanceries, though to prove their derivation from this source would be no easy matter. We may have very little doubt that the Anglo-Saxon scribes, who received the art of writing from the Roman missionaries, derived the outlines of their diplomatic compositions from the Gallo-Roman chancery which in turn was modelled upon the "course" of the Papal Curia. There seems to be no other possible explanation of the exist-

*nostrae repertae vetustissimae, scedulae eorundem regum nomina et quibusdam personis factas ab eisdem terrarum donationes continentes; quae donationes etiam ab ipsis personis post modum ecclesiae nostrae in perpetuum eleemosynam, cum eorundem scedularum munimento, sunt collatae.* For an instance in point, cf. *Cart. Rames.* i. 257, and Public Record Office, Ancient Deeds, No. 7873.



ence of a considerable body of Old English diplomata from the 7th century onwards. And yet we cannot identify any number of the insular formulas with the specimens preserved in the Papal or Imperial, Lombardic or Frankish collections and precedent books. At one time we have a snatch of a Roman and at another of a Frankish formular. Here we recognize Marculf and there the *Liber Diurnus*.

This failure to identify the common sources of the Old English formulas is at first sight somewhat disquieting. We must remember, however, that the text-books of the Merovingian and Carolingian chanceries were not contemporary with the most active period of English diplomatic writing. Perhaps also our confused impression of the insular forms is only the natural result of a cursory inspection of the strange medley of historical documents that fill the earlier pages of our *Codex*. We have first of all to put aside vernacular "versions," rhymes, wills, conventions, letters, Papal Bulls, laws, councils and other historical documents which (however interesting in themselves) do not furnish us with examples of diplomatic construction. Even then it will be found a matter of no small difficulty to classify the formulas of the residue of credible examples in a comprehensive system; for no Anglo-Saxon king used the distinctive style of the Continental chanceries and a constant overlapping of style and interchange of formulas is met with from first to last.

We have seen that the diplomatic instruments which were dictated in the Continental chanceries were composed according to certain recognized formulas, and that these were arranged so as to divide the diploma into three parts, consisting of an initial and a final Protocol, with the Text or body of the charter lying between them, as in the following Table.

(a) *Initial Protocol.*

Invocation.  
Superscription.  
Address.  
Salutation.

(b) *Text.*

Preamble.  
Notification.  
Exposition.  
Dispositive clause.  
Final clauses.

(c) *Final Protocol.*

Date.

*Apprecatio.*

Attestation.

It must be further understood that several of these conventional formulas are capable of considerable elaboration according to the purport of the instrument itself, whilst the order and wording of the whole series vary during different periods. As the Continental diplomata are known to have been composed by a notarial college or at least by an official body of scribes, and, as we have seen, in accordance with official precedents, the regularity of the above formulas is easily explained. This uniformity was further enhanced by the special devices employed for their execution.

It has been previously insisted that no notarial apparatus existed in this country during the Anglo-Saxon period, and this unprofessional character of the native instruments is reflected in the arrangement of the formulas as well as in the handwriting itself.

The following classification of the Old English formulas will show the distinctive features of this national type:

(a) *Initial Protocol.*

Invocation.

Superscription.

(b) *Text.*

Preamble (or Proëm).

Exposition (rudimentary).

Disposition (or "Grant"; with description of Boundaries).

Final clause (or "Sanction").

(c) *Final Protocol.*

Date.

Attestation (Subscriptions).

It will be noticed that, for the purpose of this table, it has been necessary to make certain modifications in the recognized arrangement of the successive formulas. Thus an Initial Protocol can be distinguished only by recognizing the importance of the Superscription which, although frequently involved with the first two clauses of the Text, usually sets forth the royal style in a formula which is constantly repeated in the terms of the Subscription in the Final Protocol. Again, the Preamble might be regarded as a substitute for the Invocation (which it so often replaces) rather than as a mere prelude to

the Exposition in the Continental style. In any case its place is sometimes taken by a rudimentary Exposition, which, when present, is little more than a primitive Movent clause<sup>1</sup>. Lastly, it should be clearly recognized that the description of the boundaries, which is such a distinctive feature of the Old English diplomata, is merely an appendix to the "Grant" itself, usually inserted between the Text and the Final Protocol, but also appended as a schedule to the completed charter.

Apart from this arrangement of the existing formulas, the Old English diplomata may be distinguished by the omission of others which are specially characteristic of the Continental chanceries as well as of the conventional charter of later times. These omitted clauses are the Address (invariably), the Salutation (usually), and the Notification, whilst the numerous variants of the Final clause which occur in Continental types are also wanting.

The characteristic features of these native charters can also be recognized in the composition of the formulas themselves. It is certainly possible, however, to notice a gradual development in the case of the Latin diplomata of the 7th and 8th centuries from the Roman type of donation to that of the Anglo-Saxon "land-boc." It is in the Disposing and Attesting clauses that this foreign influence is most conspicuous. The use of such words as *trado*, *cedo* and *dono* is most suggestive, together with the use of the perfect or future tenses and the first and second persons, whilst the announcement of the boundaries is in Latin. Again, in the Dating and Attestation clauses we meet with such formalities as are implied by the expressions *testes competenti numero rogavi*; *rogatus consensi*, &c. Again, the Indiction is rarely wanting and the *Signum manus* is employed, at least for minor witnesses. At the same time, even in this early period, considerable variety and certain national characteristics may be seen in the expression of the kingly style, especially in the Superscriptions of the Mercian rulers, and the purport of the grant may be neatly epitomized in the royal Subscription. In the 9th century the most pronounced of the old classical formulas are modified by the increasing luxuriance of the native diction. This is especially noticeable in the case of the Dispositive clause in which the conditions of the grant are formulated in deference to the national policy. Moreover, *Scripta* occurs more frequently than *Acta* in the Dating clause, and the sub-

<sup>1</sup> Cf. *Rot. Chart.* (Record Com.), p. xxiii, n. 2, where (as in Kemble) the Preamble is regarded as a Movent clause. In this case, however, a true Exposition must equally be regarded as a Preamble.

scriptions of the witnesses assume the conventional form which was subject at a still later date to such extravagant embellishments.

Again, in spite of the general resemblance of the Old English formulas during the whole period of their composition to those used in the Italian and Frankish chanceries, many divergencies may also be noted. The Invocation, though reproducing Continental formulas<sup>1</sup>, is never embellished with the elongated cursive characters of the Roman and Frankish calligraphy. Moreover, in a great number of cases, no Invocation whatever is found. The Superscription, as we have seen, is distinguished in Old English charters by an informality of style which contrasts with the system of the foreign chanceries. It is true that in the majority of the later charters the style *Dei gratia rex Anglorum* resembles the parallel Frankish formula, but this leaves a large number of irregular forms in the earlier pages of the *Codex*.

In the composition of the Final Protocol, we have still stronger evidence of the informalities resulting from the absence of a notarial system. The words announcing the execution of the instrument are usually wanting or imperfect and there is no notice of the act of sealing. The phrase *Acta* instead of *Scripta* does indeed frequently occur till the middle of the 10th century, but its disuse from that date is noticeable. Of the distinctly foreign *Apprecatio* it is only necessary to observe that such a phrase as *In Dei nomine, feliciter, Amen* occurs only in the worst type of forgery.

In the case of the Attestation clause we have to distinguish carefully between genuine and apocryphal instruments, but here too a progressive development of style is apparent. The early *Signum manus* is replaced by the equally stereotyped *consensi et subscripsi*, and this in turn by the characteristic flourishes of the 10th and 11th centuries. All these are perfectly regular, each in its own period, but the absence of a royal monogram and seal and of a notarial subscription gives an appearance of irregularity to the Subscriptions of the Old English diplomata which does not actually exist.

The Protocols of a royal charter will naturally form that portion of the instrument which would be chiefly affected by notarial devices or by variations in the style of composition. The Text, on the other hand, will to some extent reflect certain constitutional and local peculiarities. In the case of the Old English charters the national characteristics are clearly displayed in the Dispositive

<sup>1</sup> Perhaps the characteristic English form is *Regnante Christo* in distinction to the Continental *In nomine sanctae et individuae Trinitatis*.



clause<sup>1</sup>. The Preamble and Sanction, however, bear a general resemblance to the corresponding clauses of Continental diplomata. Here the usual themes are introduced, the transitory nature of human possessions and the advantage of exchanging these for more lasting treasures; the duty of worthy monarchs towards the Church or the importance of recording temporal grants by reason of the uncertainty of life and the deceitfulness of human nature. At the same time we can recognize considerable variety, and even elegance, in the diction employed which reminds us not infrequently of the style of the pontifical chancery, especially when the Preamble opens with a sententious expression<sup>2</sup> which seems to dispense with the necessity for an Invocation.

It is a well-known feature of the style of the Continental chanceries that the consecutive formulas begin with recognized catch-words. In the case of the Old English charters these distinctions are far less obvious and usually occur only in the Exposition of the Grant and the Sanction. The absence of one of these familiar introits is due to the omission in Old English diplomata of the Notification, which, like the Address, only occurs in irregular forms. In the place of a Notification, therefore, the Preamble is followed immediately by the Exposition with which it is connected, as usual, by such words as *Quapropter*, *Quamobrem*, &c.

This clause may briefly refer to the circumstances or motive of the grant, as in the familiar Old English formulas *pro remedio et salute animæ meæ*; *pro ejus placabili pecunia*. It has been previously observed that the long and circumstantial narrations which occur in Old English and Continental diplomata alike are suspicious in the case of the former, at least. These interpolations, however, are not confined to the Exposition but are sometimes introduced into the Grant and Sanction, and even into the Dating and Attesting clauses<sup>3</sup>.

The essential words of the Grant itself do not differ materially from foreign formulas. Nevertheless it is this disposing clause which furnishes the most marked characteristics of the Anglo-Saxon "land-boc." It is usually announced by the personal statement of the grantor, followed by the words of concession to the grantee<sup>4</sup>, with a brief description of the estate conveyed, and a note of the conditions

<sup>1</sup> We have seen that the Narrative clause usually amounts to no more than a parenthesis.

<sup>2</sup> This frequently takes the form of a Scriptural text.

<sup>3</sup> These are particularly suspicious when they occur as part of a new paragraph introduced by the word *Insuper*.

<sup>4</sup> In the second or the third person.

or limitations of the Grant, or of the consideration for the same, if introduced here instead of in the Exposition.

In each of these clauses there is ample scope for an expression of the national polity, and the rich harvest of constitutional and philological terms thus preserved has been already reaped and garnered by industrious and skilful hands. It will be sufficient, therefore, to repeat that there are several features of the Old English formulas which may be regarded as national distinctions, such as the careful identification of the locality of the Grant and the description of its boundaries expressed in the vernacular calligraphy and diction. Indeed, we are almost tempted to conjecture that in some cases space may have been left by the scribe for the insertion of these particulars by a special "telligraphist," just as space was left for the rubric in copying MSS.

Again, there is the well-known reservation of the *Trinoda Necessitas*, in connexion with the exemption from public burdens or royal exactions, together with the enumeration of particular liberties.

The Sanction peculiar to these Anglo-Saxon charters is usually of a combined comminatory and promissory character. The introit *Si quis* will be very familiar to all students of the *Codex*, but a variant occurs with the words *Augentibus* and *Minuentibus*.

It has often been remarked that the Old English diplomata differ from the Continental by the omission of all mention of the compensation to be exacted for transgression. It might be added that the absence of the numerous provisos found in the Final clauses of the foreign types constitutes a further distinction, though some traces of an Injunctive or Prohibitive clause might possibly be found in genuine charters and can be clearly distinguished in the later vernacular writs.

The Old English diplomata which may be most profitably examined for the purpose of diplomatic study are perhaps those which range in point of date from the end of the 7th century to the middle of the 10th. Amongst these, the charters of the 7th and 8th centuries, being comparatively few in number, of a very miscellaneous character, and for the most part of doubtful authenticity, may be conveniently grouped together with the general characteristics of irregularity of form and traces of foreign influence. In the next group might be comprised the royal charters of the 9th century and beyond, to the reign of Æthelstan. This is a period fertile in originals—and forgeries, but the sequence of formulas is, on the whole, well-preserved and the kingly style is becoming fixed. Finally,

with the reign of Eadward the Elder, certain formulas are more or less recurrent; but of the diplomata of this king so many are confirmations, innovations, narrations, so many indeed are later apographs, that the inception of the new style must be deferred to the reign of Æthelstan.

The third period begins with this reign and lasts till that of Cnut. For the first time we recognize the consistent use of appropriate formulas which recur, with the greatest precision, in the several diplomatic types to which they respectively belong. Thus a charter which begins with a Preamble in a certain form of words will usually contain a Superscription, Exposition, Grant, Sanction, Dating and Attesting clauses in an equally distinctive form; that is to say, each of the charters which contains any one of these formulas will be found to agree with the other charters of the group in respect of this and the remaining formulas.

There are of course variants and irregular forms, but these can scarcely affect the general proposition. And this is not all. We may even be able to ascertain that one or other of these distinctive forms is preferred during a certain period of the reign and that a particular form is employed for the composition of a batch of charters executed on the same occasion, or that it is especially affected by certain religious houses.

This statement, however, is only true to a limited extent. It is certainly possible to point to well-marked formulas which appear to obtain during certain reigns and even during definite periods of those reigns<sup>1</sup>; and it is also possible to show that a large proportion of a certain issue was appropriated by a particular house<sup>2</sup>. At the same time it would be found that there are numerous revivals or survivals of other equally important formulas extending over a considerable period, whilst we have to reckon here once more with the question of the authenticity of our existing texts<sup>3</sup>.

In the reign of Æthelstan the Old English "land-boc" approaches the highest point of its development, as will appear from an analysis of formulas printed in the Appendix. An Invocation is prefixed to some thirty charters of this reign in the shape of a *chrismon*, but as comparatively few of these instruments have been preserved in a

<sup>1</sup> e.g. in the case of the forms *Flebilis fortiter* used between the years 931 and 933, *Fortuna fallentis saeculi* between 934 and 937 and *Egregius agonista* in 938 and 939. Cf. *Crawford Charters*, IV. l. 21 note, and l. 40 note.

<sup>2</sup> Thus five out of the ten forms *Flebilis fortiter* may be assigned to the church of Winchester.

<sup>3</sup> Cf. *Crawford Charters*, p. 111.

contemporary form, some allowance should be made for possible embellishments. The favourite openings of this formula would seem to be *Regnante Theo* and *In nomine Dei* with several variants. As the choice of an English scribe in the case of Invocations was comparatively limited, the recurrence of these variants is not surprising. On the other hand the Preamble which offers a greater scope for individuality of design affords a far surer test of systematic composition.

A Preamble is found in not fewer than 55 of king Æthelstan's charters, and of these several are found in combination with the appropriate formulas before referred to<sup>1</sup>. Thus in the case of the ten charters in which the Preamble begins with the words *Flebilis fortiter detestanda*<sup>2</sup>, there is no Invocation, the Superscription contains the periphrasis *per omnipatrantis dexteram*, for *Dei gratia*, the Exposition begins with *Qua de re*, the essential word of the Grant is *tribuo*, the Sanction begins with *Si autem* and the Dating clause with *Hujus namque*. Finally, the royal Subscription usually contains the words *ierarchia praeditus rex*<sup>3</sup>.

It will be noticed that in the great majority of charters which contain three typical Preambles of this reign an Invocation clause is not present<sup>4</sup>. In the remaining examples, with a few isolated exceptions<sup>5</sup>, the Preamble is preceded by an Invocation with which it is either skilfully blended<sup>6</sup> or else distinguished by such words as *Quoniam*<sup>7</sup> or *Quamvis*<sup>8</sup>.

As for the themes of the several Preambles of this reign, it is perhaps enough to say that they are of the conventional types which are familiar to us in the diplomatic writings of other periods and other countries. That they contain any indications of the authenticity or otherwise of the several charters, or any allusions of historical or even of diplomatic interest might be a somewhat rash assertion, but as to the beauty and general purity of their style there can be no doubt.

It has been already stated that the notice of an Exposition is an innovation in the recognized classification of the Old English diplomata. During this period, apart from the well-marked presence of the clause and its position with regard to the Preamble and Grant,

<sup>1</sup> Above p. 196.

<sup>2</sup> C. S. 635, 674, 675, 677, 689, 691, 692, 694, 695, 696.

<sup>3</sup> In several cases with variants (see Appendix).

<sup>4</sup> See Appendix.

<sup>5</sup> e.g. C. S. 663, 664, 665, 666, 667, 680, 681, 701, 713.

<sup>6</sup> As in the majority of Charters beginning *Regnante*.

<sup>7</sup> Cf. C. S. 690.

<sup>8</sup> Cf. C. S. 683.



it usually contains nothing beyond the expression of a motive, material or spiritual, as the case may be. In a very few cases, however, the Exposition shows some approach to a narration or recital, or even a discursive tendency<sup>1</sup>.

Besides the appropriate catch-words found in the Expositions of the special diplomatic forms given in an Appendix, certain interesting variants are found in the remaining charters of this reign. *Quapropter* is, of course, the favourite introit, and, next to this, *Qua de re* and *Quamobrem*. *Unde* and *Proinde* are obvious alternatives, but a pleasing variant is seen in *Cujus amore*<sup>2</sup>. At the same time it will be found that in a number of cases the Grant is simply announced with the words *Ego Æthelstanus*. This is especially noticeable in those charters which have an Invocation clause but no Preamble<sup>3</sup>.

The Grant being, with the exception of the Date, that part of the Old English charter which has received most attention from modern scholars, it is only necessary to refer briefly to its scope and composition. Moreover, as the usual subject of these charters is a Grant of land, it will be evident that the clause in question must naturally be of a uniform nature. This, at least, is the case in the reign of Æthelstan, the announcement, description and conditions of the Grant being all well preserved. It will be seen by reference to the forms printed in an Appendix that of the disposing words the most characteristic is *tribuo* with variants such as *condono*, *concedo*, &c.

As the vernacular description of the boundaries had formed an essential part of the Anglo-Saxon charter from the early part of the previous century it need scarcely be said that it appears in all the regular diplomata of this reign.

The Sanction, like the Preamble, is, as we have seen, capable of considerable variation, and, unlike the latter clause, a characteristic formula cannot be distinguished in the linked charters above referred to. But most of these variations are merely verbal flourishes, and the Sanction might be called the *Si quis* clause with as much truth in Æthelstan's reign as in any other. One remarkable exception, however, occurs in the substitution of a "glacial" curse for the usual threats of eternal fire. It has been suggested by an eminent scholar<sup>4</sup> that the charters containing this formula were the compositions of

<sup>1</sup> *C. S.* 667, 670.

<sup>2</sup> Cf. *C. S.* 663, 664, 667, 669, 745 for other variants.

<sup>3</sup> For a confusion of this formula, see *C. S.* 660 and 746.

<sup>4</sup> Sir F. Pollock who kindly called the writer's attention to this interesting variation in the year 1896.

a scribe who had crossed the Alps and whose impressions of the journey have given an unusually realistic touch to this conventional clause. Curiously enough the use of this formula is confined to a period of ten years between 937 and 947<sup>1</sup>, and would appear to have been affected by a small group of religious houses<sup>2</sup> which may have had a special interest in a legend of the Alps<sup>3</sup>.

Returning to the Protocols of the charters of this reign, the style of the royal Superscription and Subscription will be found consistently preserved in the linked charter-formulas analysed in an Appendix and, speaking generally, the Superscription of this king should contain, in addition to the title *rex Anglorum*, a reference to the royal sway over these islands. This style is commonly repeated in the Subscription with the addition of the conventional words which denote the apposition of the *Signum Crucis*.

At the same time it will be seen from the analysis given in the Appendix that a large margin must be left for the individual taste of the casual composer, the royal title being often given in such an archaic form as *Æthelstanus rex*, or *rex Anglorum*, or even *Angul-Saxonum*.

The Subscriptions of the witnesses at large show a distinct advance in respect of uniformity, the usual formula being *Ego A. consensi et subscripsi*. There are a few slight flourishes in the signatures of the bishops. The signature of the primate is frequently distinguished by the formula *Cum trophæo agyae crucis consignavi*, whilst the characteristic signature of the bishop of Winchester is still more striking.

The Dating clause affords one more evidence of the precision of these linked formulas. Thus a charter of Æthelstan which begins with the Preamble *Flebilis fortiter detestanda* or *Fortuna fallentis sæculi* will have a Dating clause beginning *Hujus namque*; whilst a charter beginning with *Neminem quippe* or *Egregius agonista* will commence the Dating clause with *Acta est*. In other cases we find the usual order

<sup>1</sup> C. S. 714, 728, 734, 741, 753, 756, 757, 759, 767, 781, 783, 813, 821, the majority of which belong to the reign of Edmund.

<sup>2</sup> Christchurch (Canterbury), Winchester, Bath, Wilton, and later copyists (probably) at Shaftesbury, Wells, Malmesbury and Abingdon.

<sup>3</sup> That the dangers of this mediaeval journey were impressive may be gathered from the weird legend preserved by William of Malmesbury (*Gesta Pontificum*, 25) which relates how the curse of Archbishop Odo overtook Ælfsige, Bishop of Winchester, in the frozen passes of the Alps. Still more significant is the passage in which John of Salisbury writing from the Great St Bernard prays to be released from "this place of torment" (cf. Stubbs, *Oxford Lectures*, p. 128).

of the formulas reversed and the charter begins *Anno Dominicæ incarnationis*<sup>1</sup>, &c.

It was not to be expected that a series of elegant formulas should begin and end with the reign of Æthelstan. Some of these, especially the forms of the Invocation, can be traced back to the reign of Ælfred or even earlier, whilst others again recur in the charters of this king's immediate successors<sup>2</sup>. In some respects, indeed, it might be held that in the reigns of Eadmund, Eadred and Eadwy the Old English diplomata reach their highest state of natural development. That is to say, there is, all things considered, evidence of greater originality and resourcefulness than we can find in the more artificial and irregular forms of the later Anglo-Saxon monarchy. In proof of this it would be found that the scribes of the later period have constant recourse to the conventional formulas of earlier dictators, unless these manifest revivals are to be attributed to the deliberate imitations of unscrupulous fabricators.

The formulas of Eadmund are particularly interesting. The style of the Superscriptions and Subscriptions of this king resemble those of Æthelstan, and there is, of course, little change to be noticed in the phraseology of the Invocation, Grant, Sanction<sup>3</sup> and Date. On the whole there is a larger proportion of Invocations, and many distinctive Preambles are preceded by *Regnante, In nomine*, or some such formula<sup>4</sup>. With these we have a recurrence of older formulas, which indeed reappear at intervals down to the reign of the Confessor<sup>5</sup>.

The charters of Eadred are also characterized by mingled grace and simplicity and a characteristic formula of Subscription appears as *indeclinabiliter subscripsi*. In one case, at least, we meet with a charter modelled on the Continental system, and this must necessarily be regarded with suspicion<sup>6</sup>.

Under Eadwy the conventional Preambles, which have already undergone several modifications<sup>7</sup>, are conspicuously florid. The Superscription of this king also affects the imperial style which is such a noticeable feature of the diplomata of this later period<sup>8</sup>.

The reign of Eadgar furnishes nearly 300 diplomata of one sort or another, and these present us with a considerable variety of

<sup>1</sup> See Appendix.

<sup>2</sup> Cf. *Crawford Charters*, p. III.

<sup>3</sup> It is noticeable that Ananias and Sapphira are frequently introduced in the place of Judas.

<sup>4</sup> Cf. *C. S.* 749, 791, 796, 808. For exceptions to this practice, cf. *C. S.* 763, 768, 770, 776, 786.

<sup>5</sup> Cf. *C. S.* 752, 798, 814, 817.

<sup>6</sup> *C. S.* 860.

<sup>7</sup> Cf. *C. S.* 867, 868, 901, 955, 964, 982, 986, 1031.

<sup>8</sup> He is also described as *industrius Rex* (or *Basileus*).

formulas, though the general character of the period is still a conservative one<sup>1</sup>. The Preambles, however, are of a didactic and Scriptural type. In the royal style *Dei gratia* occurs, usually, in forgeries of Westminster and Croyland. A typical Attesting clause has been noted in conjunction with appropriate formulas<sup>2</sup>.

With few exceptions the same remarks might apply to the examples of the fourth period of Old English diplomatic writings, which extends from the invasion of Cnut to the Norman Conquest. So far as the regular diplomata of this period are concerned, beyond the final evolution of the royal style<sup>3</sup>, there is very little variation in the now stereotyped formulas, the old familiar Invocations and Preambles recurring with monotonous regularity<sup>4</sup> as though the scribes of this later age suffered from poverty of invention.

At the same time we must date from the beginning of this period the rapid development of a novel method of diplomatic composition which was destined to supersede entirely the typical forms of the Old English charter in the course of the following century. At least as early as the reign of Eadgar we begin to notice the presence of a new class of diplomatic instruments in the pages of our *Codex*. These diplomata are written entirely in the Old English character and language. Not only so, but they include during the 11th century a class of instruments composed in a style that is totally distinct from that of the Latin charters of the period, a style so precise and so well adapted to the growing requirements of the kingly state, that it survived the Conquest itself and forms the basis of the royal writ which has been continuously employed down to our own time.

The importance of the above innovation will be easily recognized; but the fact is one that may seem to stand in need of something more than mere assertion. Stated in the briefest possible way the case is this, that the Old English writ is found to contain the elements, at least, of a Superscription, Address, Salutation, Notification, Exposition, Disposition, Date and Attestation. Thus it is seen to approach more closely to the Continental type than the insular Latin charter. In fact we have here an epistolary style represented by certain formulas<sup>4</sup> which have not hitherto been observed in the native diplo-

<sup>1</sup> Cf. *C. S.* 1074, 1259, 1277, 1312.

<sup>2</sup> By the editors of the *Crawford Charters* (p. 117). The formula is as follows: *Scripta est hujus donationis singrapha, hiis testibus consentientibus, quorum inferius nomina caraxantur.*

<sup>3</sup> Cf. *C. D.* DCCLXXIV, DCCLXXXIII, DCCXCII, DCCXCVI, &c.

<sup>4</sup> *i.e.* the Address, Salutation, Notification and Valediction.



mata, whilst other formulas<sup>1</sup>, which are especially characteristic of the latter instruments, are suppressed or greatly modified.

That is to say, whilst the Invocation and Preamble are omitted, the Exposition and Disposition develop new and distinct formulas with a tendency, in the case of the latter, towards the insertion of final clauses after the Continental fashion. Finally, it may be observed that the scope and purpose of the writ itself are conducive to that brevity and precision which are associated with the native post-Conquest formulas.

In the vernacular instruments to which we have referred it will be found that the Superscription hitherto remarkable for its diffuseness is the simplest and the most consistent of all these formulas. It comprises the royal style in the words *Ic A. cynige*, or, merely, *A. cynige*, and no more. As no Subscriptions are appended to the Old English writ, this formula may be regarded as an anticipation of the brevity of the later official style employed on like occasions. Whether we should go a step further and assume that this informality of style and neglect of an official Subscription may be explained, in this case, by the use of a royal seal, is one of those vexed questions which we have already learnt to expect in the study of Old English diplomata<sup>2</sup>.

The Superscription of this writ is followed by an Address, a clause which is now found for the first time. Its usual form is that of a particular or local and not a general address<sup>3</sup>. The persons usually addressed are the Bishop or Earl, or both, together with all the King's thegns within a certain shire; in fact all the officials of the County Court. In some well-known cases the Address includes the officers in every shire in which the beneficiary has lands. This Address, therefore, unlike the Superscription, is not merely conventional. On the other hand, the Salutation and Notification, which follow it, consist of stereotyped phrases, interesting only on account of their exact correspondence with the parallel formulas of the later Anglo-Norman writ<sup>4</sup>.

The Exposition which should introduce the Text of the instrument is seldom clearly marked. Even in the regular Latin diploma of the period, as we have seen, its presence is obscure, and in a writ

<sup>1</sup> *i.e.* the Invocation, Preamble, Disposition and Sanction.

<sup>2</sup> See above, p. 168 sq.

<sup>3</sup> A general or universal Address is sometimes found but this, especially when directed to the arch-bishops, bishops, abbots, earls, sheriffs, port reeves and household officers, may be regarded with suspicion.

<sup>4</sup> See below, p. 219.

there is obviously less need or scope for a recitation or narrative. At the same time we may regard this rudimentary clause as the precursor of the well-known Movent clause of the post-Conquest writ. Here it is usually an expression of the royal will, revealing a benevolent or pious motive<sup>1</sup>. More rarely an actual recital or narrative is given of the circumstances which immediately led to the issue of the present instrument, or a former donative or conveyance is recited by way of certification.

The Dispositive clause which represents the Grant of the regular diploma is at once the most characteristic and the least regular of any other portion of the Old English writ. In a majority of cases it must be regarded as a precept confirming or completing the privileges or possessions already conveyed by a former grant. In other cases, however, these are actually granted or conveyed by the writ itself, though whether such instruments (like those of a later period) should be designated as writs or as charters, or whether they are in all cases genuine, are questions which are deserving of some consideration.

The Dispositive clause, then, in the typical Old English writ takes the form of a declaration or precept which is usually expressed in one or other of two very similar forms. The first of these follows a brief Notification, closely resembling that of later times, stating that the King, from certain motives, has granted or confirmed the following parcels or privileges; to which is usually added, by way of a Final clause, a Prohibition, intimating that nothing will be permitted to prejudice the benefit of the said grant. The second form is that of a mere precept for securing peaceful possession of a privilege or property without any statement of a grant. Each of these variations furnishes distinct formulas. In the one case the usual expression is *ic habbe geunnen*, with certain variants. In the other the injunction may take a greater variety of forms<sup>2</sup>.

The description of the premises granted or confirmed is usually expressed in the same terms as those found in Latin charters of the

<sup>1</sup> e.g. *For mynre sawle & for ealre mynra maga and for aelre, there Kynga sawle the aefter me, &c.*

<sup>2</sup> A number of examples will be found in the *Codex Diplomaticus* between Nos. DCCCXXVII and DCCCXCVI. Here the O.E. letters have been modernized: Such forms as *ic wille thaet A. habben, or friglice habben; or thaet that lond at X. lige into A.—; that alle thinge lige into A.—; thaet the Sokne lige into A.—; thaet A. werie now hiss lond—; thaet A. beo his landes wrthe; or his saca wrthe and his socna* are commonly found. The Injunctive or Prohibitive clauses referred to will be easily recognized by the respective introits *And ic wille; And ic bidde, or And ic nella; And ic wille nan, &c.*

period. In some cases this description is contained in the recital of a former grant or convention and, as in the case of the post-Conquest writ-charter, we constantly find that the conditions of the Grant are specified or its provisions amplified in a final clause which furnishes several persistent and instructive formulas. One of these, which might be called the *Mid saca and mid socna* clause, sets forth the special liberties or jurisdiction appertaining to the premises in an alliterative jingle<sup>1</sup>. This clause is frequently rounded off, like the general Dispositive clause, by a compendious phrase which has its equivalent in the post-Conquest diplomata<sup>2</sup>. The other clause, which might be called the *Swa ful and swa forth* clause, contains a specification of title which again exactly corresponds to the familiar *Ita—sicut* clause of 12th century Grants and Confirmations<sup>3</sup>. The second *swa* (answering to *sicut*) is followed by the example, which may be either personal or impersonal<sup>4</sup>. In several cases a secondary clause follows in which *swa—swa* is repeated with a further example.

In addition to the above regular formulas there are several isolated phrases that are characteristic of these Old English writs. For instance, we can recognize, in several cases, the equivalent of the Latin Sanction<sup>5</sup>. Again, the place of this modified Sanction may be taken by a pious ejaculation (reminding us of the Continental *Apprecatio*) or even by a simple valediction<sup>6</sup>.

More rarely some traces of Dating and Attesting clauses are found<sup>7</sup>; but these are usually associated with Old English versions of regular diplomata.

The question will naturally be asked, "Whence is this Old English royal writ derived?" It appears suddenly in the *Codex* side by side with the formal charters to which it bears no resemblance either in structure or in phraseology. Clearly then it is not evolved from the native Latin diplomata. Again, in spite of its general diplomatic affinities with the Continental diploma, the original of the Old English

<sup>1</sup> *Mid saca & mid socna, mid toll & mid team and mid infangene thof, &c.*; *On wode & on falde; bi strande & bi lande, &c.* This clause is reproduced in post-Conquest charters.

<sup>2</sup> One form is found as *mid alle thare thingan thaet tharto harth* (or *belemneth*) and the other as *And on alle (othere) thingan*.

<sup>3</sup> *Ita plene, &c. sicut A. plenius, &c.* In some cases the formula runs *swa ful & swa forth & swa fre, swa, &c.*

<sup>4</sup> e.g. *swa hit mesilfen formest on hande stod; swa lange swa heo libbe, swa ani man firmest hauede.*

<sup>5</sup> *And gif anig man, &c.*

<sup>6</sup> Cf. *Be godes bletsunge—Be Godes leve and be mine—God eow alle gehealde, and gife eow ece salthe, Amen!*

<sup>7</sup> Cf. *This...waes gemaced aet Windlesoren on feorthe Easter daeg on—gewitnysse.*

writ cannot be traced in any foreign chancery. It is true that several of its most characteristic formulas exactly correspond with those of the later Anglo-Norman writ, to which a foreign origin is usually assigned; but this is a coincidence that gives rise to a further problem.

The Old English royal writ which has been described above is almost exclusively confined to the reign of the Confessor. A few isolated examples of earlier date may, however, be found extending back to the reign of Æthelred, but these are either mere narratives or apographs of a somewhat later date<sup>1</sup>. In addition to these belated writs, we meet with certain vernacular versions of regular Latin diplomata<sup>2</sup>, but these cannot be regarded as independent forms, being merely literal and often unintelligent translations. In other cases<sup>3</sup> we have apparently original compositions, reproducing in Old English idioms the phraseology and formulas of regular Latin diplomata. Here we may find an Invocation, followed by a Superscription, Address, Notification, Grant with Boundaries, Sanction, Date and Attestation<sup>4</sup>.

Again, there is still another class of vernacular diplomata in the form of later English versions of Old English texts<sup>5</sup>. In precisely the same degree of relationship stand the avowed or obvious Latin versions of Anglo-Saxon charters such as those that were deliberately undertaken by the monk of Ramsey<sup>6</sup>.

It may be possible to identify the source of these vernacular versions if not of the Old English writ in a class of instruments of which numerous examples will be found in the *Codex*. These are the Old English conventions, wills, and other private deeds constituting a series of somewhat uncouth diplomata, but nevertheless containing, embedded, as it were, in their diffuse narrations, most of the essential formulas of the Old English writ. A large proportion of these irregular feoffments is included under the general appellation of "Anglo-Saxon Wills." Indeed the earliest specimens that have

<sup>1</sup> Cf. the interesting form contained in a Christ-Church "land-boc" of the time of Harold Haranfot (*C. D.* DCLVIII). Here the King's writ is recited in the body of the document.

<sup>2</sup> Cf. *C. D.* DCCCLIII, MCCCXLI. But we even find an old English version of a Papal Bull of the 7th century (*C. S.* 48), besides merely farcical versions of 12th century charters and 13th century Letters Missive.

<sup>3</sup> *C. D.* DCCCXLIV, DCCCXCVI.

<sup>4</sup> The inclusion of an Address and Notification may indicate a Continental dictator.

<sup>5</sup> *Haec est translatio cartae Regis Edwardi in lingua Saxonica, translata in linguam Anglicanam* (*C. D.* DCCCLXVII).

<sup>6</sup> *Chron. de Rameseia* (Rolls), p. 161, and Excheq. K. R. Transcripts of Deeds Various.



survived, extending back far into the 9th century<sup>1</sup>, are undoubtedly of this nature, although the distinction in point of diplomatic construction between these so-called "wills" and other vernacular conveyances or conventions, including manumissions, is hardly noticeable<sup>2</sup>. The further circumstance that practically all these are private and not royal instruments is of small moment, since in many cases they are stated to be executed with the sanction of the King or Witan, and in any case the diplomatic method which they disclose would have been available for the composition of royal instruments in the vernacular style<sup>3</sup>.

A careful examination of these primitive deeds will present us with the following rudimentary formulas. There is a conventional Invocation<sup>4</sup>, which, however, is frequently dispensed with, and a very concise Superscription<sup>5</sup>, which may be used in direct or oblique<sup>6</sup> oration. A Notification<sup>7</sup> is chiefly found in narrative forms and is frequently used, as in post-Conquest deeds, for an opening sentence<sup>8</sup>. The Address is not clearly marked, with the like analogy<sup>9</sup>. There is a conventional Exposition<sup>10</sup> which is often repeated in the later clauses. The essential portion of these instruments is the Dispositive clause, to which Injunctive or Prohibitive clauses are frequently added<sup>11</sup>. There is also the well-known clause of Reservation, which is a characteristic condition of the post-obit feoffment, namely a specified term of enjoyment with reversion to the donor's residuary estate<sup>12</sup>. The Sanction is more or less curtailed, but is practically a version of the conventional Latin form<sup>13</sup>. Finally, there is in some cases a formal Dating clause and the Subscriptions of the witnesses are carefully indicated<sup>14</sup>, whilst there is sometimes a personal attestation<sup>15</sup>.

<sup>1</sup> Cf. *C. D.* CCCXVII, CCCXXVII, CCCXXVIII, CCCXXXIX, CCCCXXIX, CCCCLXXVII, CCCXCII, DCLXXV, DCLXXVI, DCLXXX, DCLXXXI. Cf. *C. D.* DCLXXV, DCXCIII, DCXCIV, DCXCIX, DCCIV, DCCVIII, DCCXVII, DCCXXII, DCCLXXXVIII, MCLXXIII, MCCLXXXVIII, MCCII.

<sup>2</sup> Cf. *C. S.* 339, 405, 412, &c.

<sup>3</sup> Cf. above, p. 175 sq.

<sup>4</sup> *In usses Drihtnes naman haelendes Cristes.*

<sup>5</sup> *Ic A. mid Godes gæfe, &c.*

<sup>6</sup> *Her Swutelath, &c. thaet A. &c.*

<sup>7</sup> *Ic cythe.*

<sup>8</sup> *Her cyth on thisum gewrite thaet, &c.*

<sup>9</sup> Cf. *Notum sit universis per presentes, &c.*

<sup>10</sup> *God to lofe and minre saule to alysednysse, &c.*

<sup>11</sup> *Ic wille thaet, &c. ne thafige thaet, &c.*

<sup>12</sup> This is prominent in the deeds preserved by the churches of Christ Church and Worcester.

<sup>13</sup> *Gief hwa...hit abrecan...butan he gecyre; God aelmihtig hire awende...the this awende.*

<sup>14</sup> *Thes is to gewitnesse, &c.: This is seo hondsieten, &c.*

<sup>15</sup> *A. mid minre agenre hande, &c....gefastuic.* Mention of the presence or consent of the King and Witan is also occasionally found.

At the same time it will be observed that the above Old English formulas are practically versions of those found in conventional Latin charters, and as such they differ materially from the royal writ which has discarded certain familiar formulas and evolved others from some unknown source. We certainly do not find amongst the existing diplomata of the 9th and 10th centuries any close or persistent resemblance to the characteristic formulas of the Edwardian vernacular writ, nevertheless we should perhaps attribute considerable importance to the early prominence of the Notification and to the injunctive tendency of the Dispositive clause in the Old English conventions referred to above. There is also the alternative solution that this Old English royal writ is derived from epistolary and not from diplomatic models, whilst, as we have seen, the authenticity of the whole class is a subject for serious consideration.

## ANGLO-NORMAN CHARTERS AND WRITS.

### (a) *Anglo-Saxon Survivals.*

IT will be evident from an examination of the formulas of the later Old English diplomata that the turning point in the evolution of the charter may be assigned to a date previous to the Conquest itself. We have seen that from the close of the 10th century the Latin "land-boc" had begun to give place to the vernacular "writ." This Old English writ served as a model for the post-Conquest writ, from which in turn the true post-Conquest charter was evolved. In that transitional instrument more ample diplomatic formulas were grafted on to the vigorous stem of the native writ<sup>1</sup>. Long before the close of the 12th century this hybrid growth had superseded the older stock of native charters, and in the substituted style of "Letters Patent" it has survived to our own times.

Assuming that the diplomatic construction of the post-Conquest writ is practically identical with that of the pre-Conquest "gewritte," we are naturally tempted to surmise that the former is practically a version of the latter from a diplomatic point of view. In the first place it has been suggested that this Anglo-Norman writ, which obviously reproduces the essential features of its Old English precursor, has no exact parallel in the Continental chanceries before the beginning of the 12th century<sup>2</sup>. Therefore, unless earlier Continental forms once existed, or unless practically the whole of these Old English types are fictitious versions of a later date, the above conclusion would seem to be inevitable. And yet it can scarcely be denied that the Old English formulas might be ultimately traced to an external source<sup>3</sup>, and it would perhaps be more correct to assert that the originality of the Old English writ chiefly depends on the view that the existing formulas were easily adapted to a new type of diplomatic composition<sup>4</sup>.

<sup>1</sup> Cf. W. H. Stevenson in *E. H. R.* xi. 733.

<sup>2</sup> Above, p. 204.

<sup>3</sup> Cf. Brunner, *Schwurgericht*, 76—84, as to the analogy of the Frankish *Indiculum*.

<sup>4</sup> It will be seen later that no less dexterity was displayed by later mediaeval and even by post-mediaeval clerks in evolving idiomatic formulas in the vernacular from instruments under the Smaller Seals.

It might indeed be possible, at the expense of some ingenuity, to advance a fairly plausible argument in favour of another theory of diplomatic construction, whereby the Old English writ would seem to be the vernacular version of a post-Conquest Latin form. For the mere possibility of this suggestion we have to thank the industrious forgers of the church of Westminster and their followers at St Paul's and St Edmund's; but apart from the suspicions that might attach to the specimens preserved in these collections, the originating influence of the Old English writ could be maintained by other arguments.

It is significant that the earliest surviving specimens of the Anglo-Norman writ are couched in the vernacular and reproduce the conventional forms of the Old English *Scriptorium*. It is true that bilingual instruments exist at an early date, which have been regarded either as English or Latin versions according to individual opinion<sup>1</sup>. It is also true that Latin writs of the earlier years of the Conqueror's reign have been preserved in various cartularies<sup>2</sup>; but the existence of such forms merely affects the question of the date at which the typical post-Conquest writ in its new official Latin garb superseded the vernacular form, which unquestionably prevailed before and at the Conquest. Even the authenticity of these early Latin forms (which for the most part should be accepted with the utmost caution) does not affect the issue; for, whether they are genuine or not, the probability of the change of style having been effected within a measurable period is sufficiently obvious.

The difficulty which exists in identifying the exact process of this official conversion has been perhaps increased by the reckless production of "versions" by interested parties<sup>3</sup>. Herein, doubtless the motive of the monkish scribe was identical with that of the royal clerk, but whereas the versions of Old English writs made to order by the former are usually quite unintelligent, those which are derived from the royal chancery present us with what was practically a new type of diplomatic composition. It would seem indeed that an idiomatic Latin version of an Old English writ was beyond the

<sup>1</sup> Cf. F. Liebermann as to a bilingual ordinance of this period in *Athenaeum*, 2 Sept. 1893.

<sup>2</sup> Few if any of these have survived in their original form. The monastic collections which include the charters of Gloucester, Ely, Ramsey, Abingdon, Rochester, Worcester, St Albans, St Augustine's, &c. are well known. The official enrolments are partially described in the *19th Report of the Deputy Keeper*.

<sup>3</sup> *Quae etiam nostra usitata sermonatione describi mandavimus...quo possint in auribus vulgi sonare, ne aliqua scrupulositate*, &c. writes the Ely fabricator of an Old English charter in Latin with a 13th century version appended.



powers of an untrained scribe<sup>1</sup>, though less difficulty was experienced in the production of a tolerable English version of a Latin original. When we meet with such phrases as *Salutat amicabilem* for *gret freondlice*, *Ego demonstro vobis* for *ic cythe cow*, and *Dominus vos conservet* for *God cow gehwalde*, we know without further inspection that we have to do with a 12th or 13th century version, home-made, of an "Old English" writ. But when the same instrument was used as a model by the royal chaplains, the ancient practice of the Continental chanceries supplied technical equivalents for the familiar phrases of the vernacular. *Salutem* and *sciatis* remained in fashion when Lancastrian clerks were ringing the changes on the Old English formulas with "we greet you heartily"<sup>2</sup> or "we let you wit." In some cases, however, the official scribe avoided linguistic difficulties by the simple device of omission; whilst in the case of the writ itself he imported the Dating clause of the regular diploma to take the place of the Old English epistolary valediction<sup>3</sup>.

A further difficulty which besets the study of the origin of the post-Conquest diplomata is due to the prevailing and long standing confusion between the charter and the writ. It is well-known that the Old English charter survived the Conquest, like the Old English writ, and may equally be regarded as an approved official instrument during a certain period, which is also not very clearly defined. Certainly there is nothing improbable in this survival, which was assisted by political expediency. It is, however, unfortunate that nearly all the existing examples of this archaic type are suspicious in themselves, many being forgeries of a grotesque kind. Especially must we be on our guard when even, in otherwise irreproachable forms, a clause announcing sealing is introduced, though no seal is affixed.

However, these misgivings as to the credibility of individual

<sup>1</sup> The Ramsey historian, however, explains that the vernacular charters to his church have been "idiomatically" rendered by him from English into Latin. This is probably a deliberate misstatement.

<sup>2</sup> It is noticeable that the French versions which were especially in favour during this later period show a decided tendency to follow the vernacular rather than the Latin idioms. Thus we have *nous vous saluons souvent* as the equivalent of "we greet you heartily."

<sup>3</sup> It would seem that continental clerks, even in Normandy itself, were quite incapable of an intelligent version of Old English forms. A typical effort of this description dated at Rouen in 1119 is preserved in the Colchester cartulary. Here we have a Preamble followed by a Superscription and Exposition introduced by the O.E. tag *Horum namque exemplo*. The Dispositive clause is succeeded by elaborate Final clauses, including penal and promissory clauses, with an O.E. Sanction added. A formal Appreciation, *Deo gratias solemniter et feliciter*, follows the date (which is glossed as the year of the Prince's marriage) and the Charter is subscribed with crosses by the distinguished witnesses.

specimens need not deter us from accepting this type of instrument as one of the earliest (if not the very first) in use after the Conquest. Its devolution far into the 12th century may be (perhaps charitably) explained by the same political motive; neither need we gaze in dismay at the gilded crosses, wondrous seals and still more singular subscriptions with which certain of these charters are embellished, for the Norman chancery itself appears to have admitted a dual form of execution<sup>1</sup>.

The real importance of the survival of the Old English "land-boc" in the post-Conquest period lies in another circumstance. This instrument, composed in the "grand style" of the continental chanceries, though without their diplomatic excrescences and notarial accessaries, provided, as we have seen, the ceremonial formulas which, when added to the diplomatic outline of the Anglo-Norman writ, furnished the 12th century chancery with a "new-model" charter. It might of course be argued that these later formulas could have been imported direct from the continent. On the other hand, the absence of notarial indications and the analogy of the evolution of the writ make this supposition unnecessary. The general construction of the formulas in question, the details of the royal style, the appropriate Address, the circumstances and conditions of the Movent and Dispositive clauses and the profuse Attestation bespeak an insular origin.

(b) *The Anglo-Norman charter and writ.*

So then the Anglo-Norman charter was made, but no sooner made than confounded with the writ by antiquaries from the 12th century to our own time<sup>2</sup>. The habit would appear to be incorrigible, and it has to answer for many grave misstatements and misunderstandings. Unfortunately the lack of a *Cartularium Anglo-Normannicum*, and the further difficulty of accepting certain doubtful examples, must leave the approximate date at which this new form was introduced in considerable obscurity: at least it does not seem to have been in common use before the last years of the 11th century. In the reign of Henry I it is in full vigour, although it does not assume its final form until the middle of the 12th century. It is clearly a matter of much consequence to ascertain, on the one hand,

<sup>1</sup> A typical form of these antiquarian forgeries of the 12th century is that of the charter of Henry I to Shrewsbury Abbey (W. Farrer, *Early Lancashire Charters*, p. 271).

<sup>2</sup> *Breve est, non Carta* is an early gloss which may be found in the inventory prefixed to the Ramsey Cartulary.

the uses to which the two new types of diplomata were put during the century following the Conquest and, on the other hand, the distinctions that exist between each and in turn between these and the diplomatic instruments of an earlier and later period.

To take the latter distinction first. It may be suggested that it would appear from a reference to a considerable number of existing types<sup>1</sup> that the chief distinction between the post-Conquest and pre-Conquest royal diplomata, irrespective of their diplomatic construction, lies in the application of the former to many other uses than were apparent in an earlier age. In addition to grants and demises, the enjoyment of various liberties was an important consideration to the later baron or knight and the newly recognized corporate bodies; whilst for the serjeant or clerk the royal benevolence opened up a boundless vista of lucrative offices. These and other subjects of diplomatic activity gave rise inevitably to distinctive diplomatic forms. For example the newly developed jurisdiction over the royal forests produced a long sequence of grants of exclusive right of warren, grants of assarted lands and writs of exemption from assart fines or forestal jurisdiction in which distinctive and consistent forms are observable from the reign of Henry I to much later times. Similarly a recognized form for the grant of a market or fair was differentiated at a very early date, while the special features presented by charters of liberties will be sufficiently familiar.

Again, it is unnecessary to instance the multiplication during this period of appropriate instruments concerned with the administration of justice and finance<sup>2</sup>. Finally, apart from fresh grants or special processes, a new field of diplomatic activity and fiscal profit was being developed in the confirmation of previous concessions<sup>3</sup>. At the same time the diplomatic practice of the 12th century was essentially conservative. Herein perhaps it differs from that of the 13th in which the epistolary type of composition was exploited in order that fees might be taken in the Wardrobe or Privy Chamber as well as for the Hanaper<sup>4</sup>. Nevertheless we shall find that a species of Letters

<sup>1</sup> The incalculable losses that we have sustained for this period alone have been well described by M. Delisle in *Bibl. de l'École des Chartes*, LXVII. 361 sq. More than one hundred charters and writs dated between 1066 and 1200 were cursorily examined for the purpose of the present essay including all the originals (then unpublished) in the British Museum and Record Office, and the whole series of enrolments known as *Cartæ Antiquæ* and "Transcripts of Exchequer Charters," in preference to the texts preserved in numerous printed cartularies.

<sup>2</sup> Cf. Delisle, *op. cit.* and Eyton, *Court and Household of Henry II passim*.

<sup>3</sup> e.g. under Richard I.

<sup>4</sup> Cf. below, p. 260.

Patent was employed as early as the reign of Henry II<sup>1</sup>, and we must remember that it is perhaps only owing to the misfortune of their non-survival from an earlier period that we first meet with so many novel record types in the opening years of the 13th century.

The royal charters and writs of the post-Conquest period will, however, scarcely bear a minute sub-division. A clear distinction between the two types is after all the chief consideration, and this will form the subject of some subsequent remarks. Again, it is clearly of importance to distinguish further between the charter containing a gift or grant<sup>2</sup> and the confirmation of an earlier charter or donation. This distinction is a very simple one and remarkably consistent. None the less it has been commonly overlooked by modern antiquaries. It will be seen from the examples given in the *Formula Book* above referred to that the essential distinction between the two forms is contained in the Dispositive clause. Here the words *concessisse et dedisse* or one of them should be found in the case of a grant, with a general reference to the nature of an earlier holding. In the case of a confirmation the word *dedisse* is usually omitted and there is a specific reference to the former grant in such words as *sicut—dedit et carta sua confirmavit*.

In the case of the writ during this early period it would scarcely be profitable to attempt a close identification of those conventional forms that are so familiar to us in the 13th century. It is enough for us in the first place to realise the fact that the *Breve Regis* may be distinguished from the *Carta Regis* as an initiating or completing instrument, which is effectively employed, usually through the machinery of the County Court, for every conceivable executive, administrative or judicial purpose. It matters little in the earliest stage of its development whether it is Patent or Close, Original or Judicial; whether it is despatched broadcast to procure exact returns to a general inquisition, or directed to local officers or ministers of the crown to give effect to a gift in the forms adapted to ensure legal process or the redress of a private wrong. Possibly before the Anarchy we might already distinguish amongst others such prevalent forms as the writs for enquiry, for despatch of justice and livery of seisin and especially as "writs of aid" and execution or respite of fiscal processes, though the effort is scarcely worth the pains that it involves. We may easily conclude that the purpose of the Anglo-Norman diplomata was the same as that of

<sup>1</sup> Cf. below, p. 228 sq.

<sup>2</sup> No attempt has here been made to distinguish between these two forms and none at all between the several conditions expressed in charters of feoffment.



their Old English precursors, namely the concession or confirmation of lands or liberties and the due discharge of the respective obligations of the crown and the subjects which had not as yet assumed a very complex character. But with the accession of the first Angevin king we enter upon a new phase in the diplomatic writings of this country. Already the executive writ has been largely used to supplement the ordinary processes of justice in the national Courts<sup>1</sup>. Then as the King's Court draws to itself special cases, the possessory assizes of the 12th century begin to influence the whole course of justice. For new actions and a reformed fiscal procedure appropriate writs are required. The King's Court and the Exchequer have their departmental seals, but only the Chancery can issue original writs. And so they are issued, in an ever-increasing volume, the *Brevia de cursu* which are soon beyond the control of the successors of Glanvill and Fitz Nigel.

Somewhat strangely, the position of the true diplomata, the royal grants and confirmations, is found to be but little affected by the clerical activity of this later period. The charters of Henry II and Richard I<sup>2</sup> differ in no essential particular from the charter issued by Henry I, though the common form is rapidly becoming as purely conventional as that of the next century<sup>3</sup>. Perhaps the chief innovation during the above reigns is seen in the growing recognition of the usefulness of the Old English covenant for political, commercial and judicial purposes. Herein the treaty obligations of the crown were expressed side by side with an acknowledgement of its private obligations, whilst, shaped upon the model of the foreign *Tractatio*, the "final concord" ratified by the King's Court achieved a permanent success<sup>4</sup>.

In the reign of Richard I the germs of the later Letters Patent and *Inspeximus* may be occasionally distinguished in genuine charters, though perfect examples of either style occur at a still earlier date which may be regarded as suspicious. More noticeable, however, than any such innovation is the occurrence of so many sequences of the typical instruments of the period, illustrating the diplomatic procedure in individual cases; the charter of concession, the writ of execution and the later Confirmation.

<sup>1</sup> Cf. W. H. Stevenson in *E. H. R.* xxi. 505.

<sup>2</sup> It is true that the charters of Richard I show a tendency towards the plural style and the charters are executed *per manum—cancellarii nostri* as in the next reign.

<sup>3</sup> See below, p. 235.

<sup>4</sup> Cf. the Treaties with Flanders (*Foedera*, i. 6, 7, 22) which have, however, been incorrectly printed and described. Cf. also the Lincoln Charter of 1101 edited by Mr W. H. Stevenson in *E. H. R.* xxi. 505.

(c) *The Anglo-Norman Diplomatic Apparatus.*

The administrative aspect of the diplomatic procedure of the Anglo-Norman period would seem to imply the permanent establishment of a royal Chancery with its usual accessories, and by general consent the existence of some such institution, since the Norman Conquest, has been assumed<sup>1</sup>. The use of a seal and the office of Chancellor are at any rate beyond reasonable doubt. We can even trace the outline of a clerical establishment of the king's household or chapel from the early years of the 12th century<sup>2</sup>, whilst the official routine in connexion with the execution of diplomatic instruments was well established after the accession of Henry II<sup>3</sup>. With due deference to many learned opinions it may, however, be observed that neither the external notices above referred to, nor such documentary evidence as can be relied upon, support the view of the existence of a great secretarial department dating from the Conquest. To say the least, the importance of the office of Chancellor and of the clerical establishment of the Chancery was dwarfed by comparison with the preeminence of the judiciary and the scientific organization of the Exchequer, whilst the *Camera* or other secretarial department of the king's house has to be reckoned with<sup>4</sup>. In any case it can be clearly seen that an Anglo-Norman chancery made use of none of the notarial devices which are associated with the recognized procedure of the Continental courts, or rather that we should submit that these devices are not found in the case of genuine examples. But until an adequate *Codex Diplomaticus* of the Anglo-Norman period has been published, enabling us to distinguish between credible and fraudulent specimens it is scarcely profitable to attempt the definition of an organization, the *personnel* of which chiefly depends on the admissibility of a certain class of evidence.

It is true that the subject matter of the several diplomatic forms which obtain during this early period, has been differentiated by Madox in his *Formulare Anglicanum*. It must nevertheless be insisted that no such classification can be undertaken on any scientific principle until the existing diplomata of the Anglo-Norman period have been sifted and arranged. The great work of Madox is in fact a mere medley of charters and writs, royal and private, without

<sup>1</sup> *E. H. R.* xi. 732.<sup>2</sup> *Constitutio Dom. Reg.* (*Red Book*, p. 807).<sup>3</sup> Account of Ric. de Anesti (ed. Palgrave, *Commonwealth*), cf. *Dialogus*, i. v, vi, xiii.<sup>4</sup> *Red Book*, p. xxii; *Dialogus* (Clar. Press), p. 18.

distinction of form and regardless of the authenticity of the selected texts. In the place of such an arbitrary and artificial arrangement it is surely more desirable that the elementary distinctions between public and private, pre-Conquest and post-Conquest, English and Continental diplomata should first be established<sup>1</sup>. Even when this has been accomplished, it will still be necessary to determine which specimens shall be admitted as genuine examples. To constitute an important genus from a few undescribed species is scarcely in keeping with scientific methods of research.

It is from the study of original instruments alone that we can hope to obtain any real knowledge of the composition of the post-Conquest diplomata. A copy or entry in a cartulary or register presents in most cases an abbreviated form of the Initial and Final Protocols. An official enrolment, even of a considerably later date, will frequently preserve a fuller version of the original; but in any case it is unsealed. Again, though this copy or enrolment may have preserved the names of the witnesses who subscribe an Anglo-Norman charter on a pre-Conquest model, they would possibly fail to reproduce the accompanying "signatures"; for "✠ Willelmus Rex" is one thing, but  $\frac{V|ih}{C\ddot{o}|qr}$  is quite another<sup>2</sup>. Moreover, we require to know the size of the parchment and its shape; how it is "cut" or "folded" for the attachment of the seal and the character of the writing itself together with the spacing of the words. In any one of these details there may be affectations or omissions that will invite a further scrutiny, for it is everything to determine whether the scribe of a doubtful charter was fraudulent or merely careless.

With regard to the external form of the documents in question the Anglo-Norman diploma is usually written on an oblong or square piece of parchment varying in size from 3 or 4 inches to a foot. Exaggeration in size or shape is nearly always a suspicious indication<sup>3</sup>.

The Great Seal<sup>4</sup> is usually attached during this period by a double

<sup>1</sup> Bracton's well-known classification of diplomatic instruments (Book II. c. 16) not only belongs to a later period but is more valuable for its definitions of private than of royal charters.

<sup>2</sup> Cotton Charter, VIII. 15.

<sup>3</sup> e.g. Westminster (Cotton Charter, VI. 3).

<sup>4</sup> For the purpose of comparison with foreign types the colour of the Great Seal during this period is a matter of some interest. It is well-known that the seals of the 11th century are of a whitish hue whilst those of Henry I and Henry II are coated with a rich reddish-brown varnish. Towards the end of the 12th century green is chiefly affected and this colour continued in vogue during the mediaeval period. Under Henry III a walnut coloured varnish was employed with good effect compared with the brown and yellow or virgin wax used in a later period. For the dimensions and legends of the seals, see Messrs Wyons' well-known work and Mr Birch's list in *Report of Index Soc.* 1879, Appx. II.

strip or thong of parchment from the centre of the lower margin which is folded in order to furnish a better support. In some cases, however, no fold has been made, whilst in others it has apparently been made as an afterthought and actually conceals part of the writing<sup>1</sup>. The attachment of the thong to the fold is effected by various ingenious devices. Usually it was passed through two transverse slits made in the centre of the fold in such a way as to ride upon the upper edge of the incision, the ends hanging down on either side of the fold. These loose ends were inclosed in the body of the seal which could not be removed without cutting either the thong or the fold of the charter. Although there seems to have been no absolute rule in this matter, it will be found that in the greater number of charters of this period that are unquestionably genuine the two transverse incisions above referred to are both present; whilst in certain doubtful charters a single incision only will be found<sup>2</sup>. Exceptions certainly occur in each case, but the practice in point is deserving of attention, though after the end of the 12th century it has very slight importance.

The dimensions and texture of the thong itself should also be noted, since this was frequently obtained by cutting a strip from the top margin of the charter itself, and this is sometimes found to contain a trial line of writing which may also have been intended to assist identification<sup>3</sup>. The occurrence of a thong cut from a different parchment will be frequently noticed in charters of a very questionable character.

It is well known that seals were attached to early charters by some other substance than a parchment thong, silk, hemp, and even leather being used for this purpose. The cords made of these substances were usually braided on the fold in a rectangular or lozenge-shaped pattern, after passing through eye-lets, the loose ends being enveloped by the seal as before. It would perhaps be found that many of the charters in which the seals are attached by cords during this period were executed abroad or prepared by a foreign expert.

The writ in most cases is easily distinguished from the charter by its long and narrow form, the length being usually about three times the width of the parchment. This peculiar shape was doubtless due to the practice of attaching the seal to a strip cut from right to left

<sup>1</sup> Add. Ch. 20120.

<sup>2</sup> In some suspicious cases the thong has been passed through one of the incisions only, as though a new thong had been attached in the style prevailing at a later date.

<sup>3</sup> D'Anisy, *Chartes de Calvados*, p. 9 sq.



along the lower margin of the document. But below this strip another and much narrower strip was first cut out, both remaining attached at the base to the left-hand margin of the writ for a space of about an inch. To the upper and broader of these two strips the seal was attached, the narrower one being evidently intended to serve as a ligament to secure the writ when folded round the seal. This was necessary to prevent the weight of the seal from tearing through the neck of the thong, and the device resembles that afterwards used for securing letters missive. In many cases, indeed, the seal has been already torn away from this cause, and has even been reattached by an incision being made in the centre of the lower margin, to imitate the attachment of the pendent seal of a true diploma.

Perhaps the significance and interest of the system of attachment used in the case of the writ have been scarcely appreciated in connexion with diplomatic criticism. In the case of many existing writs of the 11th and 12th centuries which do not bear seals, it is sometimes possible to determine whether or not a seal was originally attached, from the indentation or scar (so to speak) which should be visible in the left-hand margin. Moreover, it will not infrequently be found that later forgeries of Old English and Anglo-Norman writs, whilst preserving at least the indications of the attachment of a seal, usually fail to reproduce the ligament. Again, the presence or absence of these "scars" will often enable us to distinguish between an original writ and an official rescript, a matter of some consequence since, in the earliest period at least, writs were rarely enrolled, "rescripts" being filed instead.

Although this simple form of attachment was chiefly used for writs, as opposed to charters, the latter are sometimes found to be executed in this manner. Letters Patent and Close were also frequently "cut" in this way<sup>1</sup>, and the practice in point serves as a rough distinction between Patents that are writs and those that are virtual charters, the latter usually bearing the seal suspended from the centre of the lower margin by incisions made in a "fold."

In certain cases the Anglo-Norman writ is found to be cut in an abnormal manner. One such variation appears in the form of a broad flange cut out from either the lower margin or from one of the

<sup>1</sup> In the 13th century this form of attachment was sometimes picturesquely described as *in cedula* and the liability to detachment was a convenient pretext for an "Innovation." This attachment of the pendent seal is also a device familiar to continental notaries. It is neatly described by French antiquaries as the "simple queue," but stress is not laid by these authorities on the presence of a ligament. It was also largely used for private diplomata, being often cut for numerous seals in the case of indentures or certificates.

extremities of the instrument<sup>1</sup>. Here the breadth and shortness of the "tail" must have prevented the seal from appearing pendent in the usual sense. No ligament is found in these forms, which are *prima facie* of a suspicious character.

It will be observed that in the case of writs which are closely assimilated to the charter in respect of their diplomatic construction and use, the depth of the parchment is increased at the same time that its length is diminished. Moreover, the seal is frequently attached from the centre of the lower margin on a fold as in the true charter.

#### (d) *Anglo-Norman Diplomatic Formulas.*

It has been observed before that, until the urgent need of a critical *Cartularium Anglo-Normannicum* has been supplied, it is impracticable to attempt an adequate diplomatic description of the post-Conquest diplomata. As, however, such a task is perhaps within the powers of but two or three scholars of our own time, we must for the present make shift with the results of a desultory study of the composition of the contemporary diplomata.

To begin with the writ; it will be noticed that the formal Superscription in the post-Conquest forms exhibits a distinct advance upon the Old English style. To the formula *A. rex Anglorum* the qualification *Dei gratia* is not frequently added before the reign of Henry I, and it has recently been argued by M. Delisle in a notable essay<sup>2</sup> that this diplomatic formula comes into regular use from the year 1173.

Other expansions in early native charters must be regarded with some suspicion. Under Henry II, however, when the writ has been diverted from its original purpose, the full style of the sovereign is used indiscriminately in both charters and writs.

The Address of the post-Conquest writ varies in a rather perplexing manner. At first the persons specifically charged with its execution are usually of the same type as in Old English charters. From a very early date, however, we meet with writs, the authenticity of which it would not be always easy to dispute, addressed at large in the style of the formal diploma, namely to the Archbishops and other magnates. It is true that in the writ as well as in the charter a general Address in such words as *et omnibus ministris et fidelibus suis*,

<sup>1</sup> Cotton Charter, VII. 1; *Ibid.* x. 8.

<sup>2</sup> *Bibl. de l'École des Chartes*, LXVII. p. 361 sq. and LXVIII. p. 272 sq. The acceptance of this learned theory depends chiefly on the reader's point of view with regard to certain charters of this reign; but see Mr J. H. Round in *Arch. Jo.* LXIV. 63.

*Francis et Anglis*<sup>1</sup> is usually appended to the designation, but this expansion has not the same significance as the conventional Address which became a stereotyped feature of the "new model" charter. Whether the occurrence of this later Address in writs or even in original charters dated before the Anarchy is to be regarded as a suspicious indication is a very difficult question. Admitting, however, that the formula inevitably occurs in many forgeries, there would seem to be no constitutional objection to dating the origin of the practice from the reign of Henry I<sup>2</sup>.

The sententious form of Salutation must be regarded as a normal feature of diplomatic as opposed to epistolary composition. In the case of the Notification which ushers in the text of the instrument much greater latitude usually prevails. In the post-Conquest writs, however, this clause is perhaps less frequently omitted than in a later period.

An Exposition reciting the occasion or motive of the precept is not, of course, at any time a characteristic feature of the writ. A brief recitation of the purport of a former grant is, however, frequently found, and in 12th century specimens the usual declaration of a pious motive constantly occurs as in Old English writs. Similarly a true Dispositive clause cannot be looked for in a mere precept, although the effect of the writ may amount to an actual concession<sup>3</sup>. The usual form is that of an Injunction, or Prohibition, as the case may be, and this is expressed by such words as *præcipio*, *mando*, *volo*, or else *prohibeo* or *nolo*. The forcible expression of the sovereign's will seldom requires to be amplified by a recitative Final clause such as usually occurs in charters of feoffment; but conditions or reservations are sometimes introduced. In this connexion several distinctive mannerisms will be noticed in Anglo-Norman writs, amongst these being a tendency to ejaculation, and the somewhat irrelevant use of such words as *amodo*, *ita* and *quia*. In fact the forgers of such instruments were not slow to grasp the distinctive value of these virile phrases, and their indiscriminate use may afford an additional cause for diplomatic criticism<sup>4</sup>.

<sup>1</sup> The extension of this form of Address to the Welsh or Irish may be regarded as having a local significance.

<sup>2</sup> In many cases, however, these seeming writs are really charters.

<sup>3</sup> In certain diplomata of Henry I's reign a grant of liberties takes the form of a string of exemptions beginning with *Et ne*—. These instruments may probably be regarded as charters rather than writs.

<sup>4</sup> In the case of grants to churches the name of the titular saint appears as the grantee (e.g. S. Ethelreda=Ely), a graphic statement which is constantly reproduced in later charters.

Another characteristic addition is seen in the significant intimation of the penalties of non-observance which replaces the old ecclesiastical Sanction<sup>1</sup>; but this, like the later order for speedy execution, may be introduced parenthetically in the injunction itself. Finally, as we have seen, a new feature is presented in the Attestation and Dating clauses which, however, like the clauses of the Initial Protocol, are merely abbreviated from the more ceremonious diploma. Like the latter, too, the writ is executed by means of a seal, the distinctive attachment of which has been already described.

The distinctive formulas of the conventional charter, modelled upon the lines of the Anglo-Norman writ, cannot be described with any degree of precision before the middle of the 12th century. The constitutional intention and the legal effect of the post-Conquest charter may be derived directly from the existing model of the Old English "land-boc" and from the analogy of the contemporary continental practice; but the diplomatic construction of this instrument must be ascribed to the influence of the post-Conquest writ. Here was found ready-made the outline of the royal charter, procured with the old constitutional formalities but composed and executed according to the new official requirements, if for no other purpose than to supplement the royal revenues.

The Protocols needed only to be amplified by an Address to the old *optimates* and an Attestation by the new *curiales*, with the embellishment of a pendent seal. A precedent was already found for dispensing with the turgid Preamble and the primitive Sanction, and for expressing the purport of the Dispositive and Final clauses in concise and conventional formulas. The tenor, however, even of these last may be traced back to pre-Conquest or Continental models. The words of donation are virtually the same, except that for graceful variants of "dono" or "tribuo" we have plain "do," "concedo" and "confirmo." So the famous *Habendum et tenendum* clause, which does not, however, become stereotyped until the next century, has its earlier counterpart in the Old English *fruendum*, and the hereditary notion and sense of perpetuity may occur in both versions. Again, the typical conditions of the post-Conquest gift, the *bene et in pace, libere et quiete, integre et honorifice* are already familiar to us, whilst we have in the inevitable *cum saca et soca* clause a mere version of the *mid sac and mid socne* of the vernacular writ. A new

<sup>1</sup> In rare and possibly suspicious cases a specific money fine is imposed for disturbance of the grantee, but this penalty clause was always permissible in the case of forest rights.



note is perhaps struck in the appendix, *cum omnibus libertatibus et liberis consuetudinibus suis*, for "liberties" and "customs" were held in greater honour by the 12th century forger than by the 11th century scribe, and the exact equivalent of the Old English formula *mid calla—belymneþ* is rather found in the Latin version *cum omnibus aliis rebus*. On the whole, however, the rhythm of the conventional "parcels" flows smoothly from either pen. *In bosco et plano* and the rest were in fact still interchangeable, in the 12th century, with the vernacular *On wode and on felde* and other diplomatic sing-songs.

At the same time the arrangement of these kindred formulas in the later period is far more precise and scientific, though possibly the Latin version lends a learned glamour to a vernacular writ. Yet a study of the technical distinctions between the Anglo-Norman grant and confirmation will show how skilfully the common formulas were utilized to produce new diplomatic types. *Swa full* may find its equation in *Ita plene*, and *sicut unquam plenius* may have its bilingual complement; but the Old English diploma will not by a simple reference<sup>1</sup> or by the omission of an essential word<sup>2</sup> indicate a broad distinction between two common diplomatic forms.

### (e) *Special Charter Forms*<sup>3</sup>.

The above analogy applies almost entirely to donations or confirmations of land. In the new diplomatic types which appear in the post-Conquest period we shall have new Dispositive forms made to order, and sometimes these are even labelled by contemporary scribes. Thus a grant introducing the word *reddidisse*<sup>4</sup> is termed a "charter of Retrocession," though restitution was also effected by a simple confirmation or by a new donation.

Amongst these special forms of early royal charters the grant in Free Alms is perhaps the most familiar, and here besides the essential and distinctive words of donation<sup>5</sup> there are appropriate complementary formulas<sup>6</sup>.

Grants of office will contain appropriate expressions in the Dis-

<sup>1</sup> *Sicut carta—testatur*.

<sup>2</sup> *Dedisse*.

<sup>3</sup> See *Formula Book*, Nos. 11—18.

<sup>4</sup> *Sciatis me reddidisse et per hanc cartam confirmasse* (or *retrocessisse*), but this is a purely arbitrary title. Thus the word *condonasse* might be said to constitute a royal pardon.

<sup>5</sup> *In pura, perpetua et libera elemosyna*.

<sup>6</sup> *Sicut aliqua ecclesia—quietius vel liberior tenet aliquam elemosynam*, &c.

positive and Movent clauses, though for legal purposes the *officium* or *ministerium* is treated as a freehold. In consideration of service rendered<sup>1</sup>, the grantee is invested with a modest daily "livery" in respect of a certain "custody" or "ministry" which he is henceforth entitled to perform, *ita bene*, &c., and with the enjoyment of the *consuetudines* thereto pertaining, *sicut aliquis illud melius*, &c., *tempore*, &c.

If we may accept certain 12th century sources as authentic, the form of the grant of a market or fair may be traced back to the reign of Henry I, and the technical formulas with regard to the period and duration of the licence and other particulars would not seem to differ in any way from a similar charter executed in the next century<sup>2</sup>.

The forest charters of the period are particularly interesting, and the genuine examples exhibit well-marked formulas. The greater number of these, however, may more properly be regarded as writs, addressed either to the Barons of the Exchequer<sup>3</sup> for exemption from common assessments, or more usually to the local foresters enjoining that certain holdings *non numerentur inter essarta*<sup>4</sup>.

In the case of a formal charter of this nature the general Address may be supplemented by the insertion of the *Forestarii*, and the Dispositive clause usually specifies the concession of so many acres of assart in a certain forest. This is followed by the usual injunction for security of tenure and exemption from assart fines and other pleas of the forest.

Grants of warren differ from the above in respect of a prohibition for other parties to chase within the warren except by licence of the grantee, under a specified penalty<sup>5</sup>.

From the above examples it will be seen that the Dispositive formulas of post-Conquest charters are capable of a considerable amount of differentiation.

The Final clauses of these diplomata, though possessing a distinct individuality, do not exhibit many variations. The characteristic Injunction which explains or supplements the terms of the donation or concession has been already referred to in its bilingual aspect<sup>6</sup>.

<sup>1</sup> *Pro servitio suo* with its well-known expansion in later Patents, *nobis hactenus impenso*, &c.

<sup>2</sup> *Cart. Antiq. R.* xxi.

<sup>3</sup> Cf. *Dialogus*, i. xi.

<sup>4</sup> The *beau idéal* of such a concession may be seen in the case of the forged charter (*Ancient Deeds*, A. S. 308) of Henry I claimed by the monks of Gloucester and produced by them in evidence as late as the 16th century (*Hist. Mon. S. Petri Glouc.* (Rolls), II. 187).

<sup>5</sup> See below, p. 224, n. 4.

<sup>6</sup> Above, p. 220.

The grant itself is frequently accompanied by a Reservation which may be of a general<sup>1</sup> or specific<sup>2</sup> nature. Similarly the Injunction may be strengthened by a Prohibition<sup>3</sup> against molestation which is not infrequently accompanied by the statement of a penalty which is sometimes in the form of a definite assessment, as in charters of the warren<sup>4</sup> and charters of liberties<sup>5</sup>, but in other cases, especially in ecclesiastical grants, it may be regarded as a reminiscence of the ancient Sanction<sup>6</sup>. Finally, as we have seen, this penal or comminatory clause has become in the early years of the next century a mere official interjection<sup>7</sup>, although the statement of a precise penalty is still to be found in modern Proclamations. The interesting development in diplomatic composition which is completed in the 13th century by the virtual division of charters of feoffment into two parts, the enacting and the recitative parts respectively, will be referred to in another place. At the same time a distinct tendency in this direction can be clearly recognized from the middle of the 12th century, and the recitative or injunctive clause also begins usually with the words *Quare volo*.

There are many miscellaneous points of interest connected with the diplomatic compositions of this period, but one remaining feature only can be noticed here. The facility with which a 12th century scribe could expand the body of a ceremonious or momentous charter, especially of confirmation, finds a precedent, as we have seen, even in the pre-Conquest period. Perhaps here also such amplifications may be regarded as being to some extent suspicious, except in the case of charters of liberties or conventions. It is in fact easy to understand how so many interpolations have been made without detection in charters of this period; for one more after-thought would be of little moment in these laboured narratives. Here *Præterea* and *Insuper* afford inexhaustible openings for the royal benevolence, whilst *scilicet* and *nominatim* play their part in ear-marking disputed parcels.

<sup>1</sup> *Ita quod, &c. salvo, &c.*

<sup>2</sup> *Excepto, &c. Reddendo, &c.*

<sup>3</sup> *Et ita ne, &c. Quia nolo, &c. Et prohibeo, &c.* and the significant hint *Ne super hoc amplius inde clamorem audiam pro penuria justitiæ*.

<sup>4</sup> This penalty due to the Crown came to be chiefly effective as deterring an offender from defending an action for trespass.

<sup>5</sup> The *Et si* clauses ending with an *emendatio*.

<sup>6</sup> In some cases this is actually preserved in the Old English form.

<sup>7</sup> *Sicut te ipsum &c. diligas.*

*f. Private Charters and Deeds.*

It still remains for us to glance at the independent construction of the private charters of the period. In some respects it might appear that here the post-Conquest scribes were equally indebted to Old English models; but the obligation is confined to the general style and does not extend to the special forms that were evolved from the primitive Convention. For the familiar types of these Ancient Deeds undoubtedly exceed, in variety as well as in number, the forms of the post-Conquest Chancery. The common forms of feoffment, however, are clearly constructed upon an official model, particularly in the case of charters executed by the churches or by the great barons<sup>1</sup>. These charters, both of feoffment and confirmation differ only from royal instruments in respect of the Initial Protocol, which is usually couched in an impersonal and narrative form<sup>2</sup>. There is no Salutation in normal cases, but the Exposition is very prominent. The Dispositive clause is precise and technical, but the characteristic Final clauses of the royal diplomata are naturally wanting. In their place, however, the legal warranty is very conspicuous and affords many interesting variants. The Final Protocol differs but little from official forms, but is frequently preceded by an annunciatory clause. The presence of witnesses who are undescribed by name is indicated by the words "et multis aliis." Finally, the seal is never, except in the case of very great men, attached to a single thong cut from the bottom of the document<sup>3</sup> but is pendent from the centre of the lower margin though cords are not used as in the case of the royal charter.

In addition to the usual charters of donation or confirmation we find many charters of Foundation and Frankalmoigne, executed by private donors, which resemble in most respects the similar produc-

<sup>1</sup> Possibly were it not for the dearth of Northumberland diplomata we should be able to add to these typical formulas some interesting variants from the *Scriptorium* of the great north-country earldom or the chancery of the episcopal palatinate. This supposition is perhaps justified by the survival of a few vernacular writs dating from the close of the 11th century in which we find an Address to thegns and drengs and in one instance the Notification "Wite ge" together with suitable dialectic equivalents for the conventional terms found in Old English writs of the period. Cf. J. Wilson in *Scott. Hist. Rev.* i. 62. Hickes, *Thesaurus*, i. 149. Two of these writs have been edited with a wealth of learning and excellent reproductions by Prof. F. Liebermann in *Archiv. Neueren Sprachen*, cxl. 3, 4.

<sup>2</sup> *Omnibus hanc cartam visuris, &c. ego, &c. Sciant præsentes et futuri, &c. Notum sit omnibus, &c. Noverint universi, &c.*

<sup>3</sup> An instance occurs in the case of a writ of Richard, Earl of Cornwall, to his bailiffs of Exeter, as late as the year 1256.



tions of the Royal Chancery. Another diplomatic form based on the Old English cyrograph, although occasionally utilised in this period for official purposes, is not of frequent occurrence amongst the Chancery Records until the next century. Of this class the Concord or Convention and the Bond are the best known examples. The Quit-claim, Release or Surrender is properly a form of Feoffment, and charters of Attornment are also complementary thereto; but we are not here concerned with the evolution of diplomatic forms, the occurrence of which in official archives is purely accidental and in some cases at least irregular<sup>1</sup>.

<sup>1</sup> On the other hand the charters of the great palatine earls and princely bishops precede those of the crown in the sequence of mediaeval title deeds in certain countries (e.g. Lancaster, Chester). For the form of an alleged seignorial charter of manumission see *The Ancestor*, XII. 42.

## LATER CHARTERS AND DIPLOMATIC INSTRUMENTS.

### (a) *The English Chancery from the 13th to the 16th century.*

WE have seen that in the case of the Anglo-Norman charters it is almost useless, for lack of a critical *Codex Diplomaticus*, to attempt the reconstruction of the establishment and apparatus of the royal Chancery which first appears as an administrative institution during the period immediately following the Norman Conquest.

The same objection applies with almost equal force to the later mediaeval period, from the close of the 12th century down to the beginning of the 16th, when the Chancery is at last fully occupied with legal business and its secretarial duties are discharged by a new ministerial department.

It is true that in this later period we are chiefly concerned with official enrolments in which the constitution and practice of the Chancery can be read at large, with the help of formula books for official writs, ordinances, accounts, correspondence, and mediaeval treatises<sup>1</sup>. But though we need have less concern as to the authenticity of contemporary instruments we are still confronted with a number of suspicious forms which have found a place in the later Confirmation Rolls through the simplicity or greed of royal officers.

Again, although the Chancery Rolls for these three centuries are becoming rapidly accessible for historical study by means of an admirable series of calendars and texts, this form of publication does not take note of the departmental usages with which we are here concerned. The commonplace books of the learned editors engaged in these official calendars would doubtless supply most of the trivial information which is needed for a diplomatic study of the period<sup>2</sup>;

<sup>1</sup> One of the most valuable of these sources, for the internal economy of the Chancery, is the series of Hanaper Accounts which have been hitherto comparatively neglected.

<sup>2</sup> Amongst the points of diplomatic interest which thus await solution, chiefly in connexion with the practice of sealing, may be mentioned the following: (1) the practice of issuing Letters under the Great Seal, *e.g.* during a minority, and by the state departments. (2) Substituted and abnormal or special forms. (3) Duplicate or triplicate charters or "pairs" of Letters. (4) Rescripts and *contrabrevia*. (5) The method and progress of enrolment. (6) The procedure of sealing with Great and Smaller Seals, the "half-seal" and the "cold-seal," &c. (7) The fees and revenue of the seals.

but for the time being this source must remain unexplored except for the casual illustrations that may be gleaned from a cursory examination of the existing texts<sup>1</sup>. This deferred knowledge must also include many details regarding the internal economy of the Chancery itself. Our complete ignorance of the nature of the alleged establishment during the earlier post-Conquest period is, indeed, eventually relieved by the interesting allusions contained in the 12th century tracts previously referred to<sup>2</sup>. But the interpretation even of these authorities is in doubt, and a wide gap remains to be filled before the records of the next century bring us new enlightenment.

In the reign of King John the royal Chancery is evidently endowed with important functions. As a court of law it can hardly be said to exist, whilst as a secretariat it has not yet attained a complete organization; but such as it is, it is supreme, we are told<sup>3</sup>, in the king's name. The ancient officers of state who, since the reign of Henry II, have withdrawn themselves from the Exchequer on the king's business, are at the disposal of this central establishment. The Marshall prepares his roll of musters or scutages, the Constable is responsible for the "liveries" of the household and the wages of the retinue. The Justiciar with the Chancellor, who is to succeed to his importance, or his deputy, are always near the King. They attest writs which serve, according to their form, as precepts, prohibitions, commissions and acquitances. With them are found the household Chamberlains, and a crowd of unplaced *curiales*, with a limited number of royal clerks. Such is the court whose activity is represented in the earliest Chancery Rolls; but although the Chancellor and his staff compose its instruments, they do not dictate its policy.

Meanwhile the older court, the *Curia Regis* of the last century, has settled down to its purely judicial business, though its justices may still be employed, on occasion, in a variety of administrative enquiries. The Exchequer, which provides the sinews of the new state-craft, is as vigilant and as powerful as ever. All promissory transactions are passed on to it by the Chancery, and it scrutinizes

<sup>1</sup> Since this was written much assistance has been given to the student by two admirable volumes of a *Calendar of Charter Rolls* to 1300, prepared by Mr C. G. Crump under the direction and supervision of the Deputy Keeper of the Public Records, who is himself profoundly learned in the technicalities of this subject.

<sup>2</sup> Cf. above, p. 215, as to the *Dialogus* and *Constitutio Domus Regis*. A valuable description of the 13th and 14th century apparatus from an archaeological point of view is contained in the histories of the Rolls Chapel by Sir H. Maxwell Lyte (*D. K. 57th Report*) and Mr W. J. Hardy (Middlesex and Herts. *Notes and Queries*, Vol. II. p. 49).

<sup>3</sup> Cf. *Hist. of English Law*, I. 172 sq.

the proceedings of the Justices with a view to fiscal profit. The whole revenue passes through the day-books of the Receipt, and even the most secret diplomatic or financial operations of the crown, transacted in the Chapel or the Wardrobe, are entered in official precedent books. With all this activity and interest around us, we are still, in the 13th century, without exact information as to the clerical establishment and housing of the royal Chancery. Towards the end of that century we begin to realize that the Chancery has out-grown the Chapel and the *Camera clericorum* of the peripatetic Court. Its clerks now occupy houses of their own, the head-quarters of the later Chancery departments, in a new centre of clerical activity<sup>1</sup>. The division between the Chancery and the Secretariat has already begun. On the one side we see the growing occupation of the Chancellor in common law appeals, in equitable suits, and in references from the Council. On the other side we mark the results of the usurpations in turn, of the *Camera*, Exchequer, Wardrobe and Council, of the growing powers of Parliament and seal-bearing offices; of the successive devices of the Smaller Seals<sup>2</sup> and the Sign Manual; of the disuse of enrolments, and the accumulation of epistolary instruments, the nucleus of the later secretarial collection.

The means whereby these developments may be traced are now in sight, but not yet within our reach. For our present purpose it will suffice to have noted these and to confine our examination of the Chancery practice to a few brief observations which are needed for the purpose of assisting the student who has occasion to consult the Chancery enrolments and files.

In the first place, leaving the formulas of the original instruments for subsequent description, it is important that those who prefer to study these instruments from the enrolments should note several peculiarities therein, in the shape of clerical devices, which may be attributed to the official practice of the Chancery.

The origin and antiquity of enrolments provide us with difficulties enough, but when the custom of enrolments is once established, more difficulties still are prepared for us. It is true that most of these difficulties have received a perfunctory explanation<sup>3</sup>, but a further warning may not be superfluous.

<sup>1</sup> Cf. above, p. 19 sq.

<sup>2</sup> No attempt has been made here to describe in detail the actual seals, which have been dealt with by experts, who have scarcely done justice, however, to the Smaller Seals used by mediæval sovereigns. The practice of sealing and other diplomatic procedure claim priority of treatment.

<sup>3</sup> One of these difficulties is notoriously found in respect of the date; for although the



The obvious fact that in a very large number of cases the Chancery clerks entered these instruments in an impersonal form, or even as mere memoranda, need not occasion surprise when we remember that the later Docquet Books containing precisely similar entries served all official purposes. Thus we may regard the Estreats of the Exchequer in the shape of *Originalia*, Fine Rolls, *Liberate* Rolls, &c., and the bulk of the Chancery writs for other purposes as mediaeval "Docquets," charters and formal instruments being more carefully entered<sup>1</sup>.

It need scarcely be suggested that the clerks could reconstruct the formulas of the original instruments with perfect facility since the task is not a difficult one to ourselves; but the loss for the purpose of diplomatic study is considerable. One remarkable consequence of this official practice is the perpetuation of certain of these narrative forms as actual instruments under a Smaller Seal<sup>2</sup>.

Amongst several technical formulas which await an authoritative explanation, attention may be called to the special use of the preposition *per* in departmental memoranda attached to diplomatic instruments or their enrolments. In the case of 13th century writs under the Great Seal it will be presently seen that the departmental minute *per Regem* or *per ipsum Regem* must be distinguished from the symbolic Attestation clause which is such a familiar innovation in this period. But when appended to warrants under the Smaller Seals the minute may have the force of an official superscription and this later use is seen in the case of Immediate Warrants and Proclamations<sup>3</sup>. But the commonest sense of *per* in this connexion is to indicate the official agency<sup>4</sup> by which the instrument has been "procured," and this connotation will be familiar in later Docquets<sup>5</sup>. A more subtle use of *per* is seen in certain official embellishments of

problem connected with the place of execution has been solved by accepting the theory of conventional practice ("at Westminster"), the actual time of execution may often remain in doubt. Thus we have the frank admission of Hengham, C. J. pleaded on his own behalf in the State Trials of 1289—92, that in *Cancellaria et alibi in uno et eodem die unus clericus ponat unam datam et alius aliam* (*R. Hist. Soc. C.S. (Third Series), Vol. IX. p. xlv*).

<sup>1</sup> In the case of the Fine Rolls, these Chancery enrolments seem to have served as Fee-Books or Minute Books, the entries being mere memoranda of transactions connected with the actual enrolments.

<sup>2</sup> e.g. the "Debenture" (wardrobe) under a semi-official seal and the *Fiat* under the Privy Seal. The former begins with the statement *Debentur*.

<sup>3</sup> See *Formula Book*, pp. 102, 149.

<sup>4</sup> Including fines in the Hanaper, as well as official persons or departments.

<sup>5</sup> It is well known that this indication is of the greatest value for tracing the sequence of instruments by which the Great Seal has been procured.

diplomatic attestations. Thus *per Barones et per Librum Rubrum de Scaccario* may be regarded as a compendious method of vouching an appropriate record which is by no means uncommon<sup>1</sup>. So, to save space or trouble, formal clauses may be rendered by another form of expression, as *Testibus domino P. Wintoniensi et aliis scriptis in carta comitis Hollandiae, anno xiiij*<sup>2</sup>. It is only one step backwards in point of practice from these official refinements of 13th century Chancery clerks to the age when men called the Apostles or the Deity to witness in their need.

This is not the place in which the existing classification of the Rolls of Chancery can be properly discussed. The facts which chiefly concern the student of Diplomatic are these. Although the only distinctive forms of diplomatic composition that were enrolled during the 13th and 14th centuries are those connected with charters and writs, it is well known that there are several important series of enrolments in addition to the Charter Rolls, Patent Rolls and Close Rolls<sup>3</sup>.

Indeed, just as at the beginning of the 13th century the great Exchequer Pipe Roll began to throw off separate membranes as a new and extensive series of "Foreign Accounts"<sup>4</sup>, so for a like convenience of official reference new series of Chancery Rolls were formed for the entry of instruments connected with special affairs of State such as Foreign Policy<sup>5</sup>, Trade<sup>6</sup>, Revenue<sup>7</sup>, Parliament<sup>8</sup> and the conventional exercise of the royal prerogative in several directions<sup>9</sup>. Apart from these recognized subjects we may meet with others of casual

<sup>1</sup> Chancery Files, 9 Ric. II. The reference to the *Red Book* is to the writ *De Prerogativa Regis* in the levying of debts, which was here vouched in a case recorded in K. R. Memor. Trin. 9 Ric. II rot. 12. Cf. also the form of pleading in which a party *se mette sur les liveres del Eschequere*, whilst in the common departmental minute *per memoranda* of a certain term, we have a mere reference to the official enrolment.

<sup>2</sup> Pat. 14 John m. 1<sup>d</sup>, an enrolment of a bond of service.

<sup>3</sup> Some of the enrolments are apparently interchangeable, as in the case of the Close and Liberate Rolls, and are even duplicated by an Exchequer series as in the case of the latter enrolments and to some extent by the various "Extract Rolls."

<sup>4</sup> See P. R. O. *Indexes and Lists*, No. XI.

<sup>5</sup> The Norman, French, Gascon, Almain, Roman, Scottish, Irish, Welsh Rolls.

<sup>6</sup> Staple Rolls, Exchange Rolls, the latter being supplemented by the Passage Rolls which record the practice of an early period.

<sup>7</sup> Liberate Rolls, Fine Rolls, the former, however, being again supplemented by other forms of enrolment.

<sup>8</sup> Parliament Rolls, Statute Rolls. As to the omission of enrolling the earliest statutes cf. G. J. Turner in *R. Hist. Soc. Trans.* (3) 1. 209, cf. *Red Book of the Exchequer*, p. ccclxviii.

<sup>9</sup> Pardon, Protection, Passage, Fine and Oblate, Surrender, Dispensation Rolls. Special forms of Protection were also entered in the Plea Rolls of the King's Court.

importance amongst the Miscellaneous Rolls of the Chancery above referred to<sup>1</sup>.

The extent and scope of the several series of Chancery enrolments have been most conveniently and lucidly set forth in the official "Guide." It may be of further interest, however, to the student to ascertain the diplomatic character of the several instruments entered in these Rolls and the general departmental system of enrolment. The vicissitudes experienced by the Royal Charter in this connexion will be presently referred to in an account of the evolution of the "substituted charter" in the shape of Letters Patent, but the subject is capable of considerable development. Again, it will be found that many writs and other instruments under the Great Seal are not entered at all, and no satisfactory explanation of the procedure in point seems to be forthcoming<sup>2</sup>.

But, however great the convenience of these separate series at the date of enrolment, the advantage is not so obvious at the present day. In fact we can easily notice a reaction in the direction of greater concentration before the close of the mediaeval period of enrolment. Of the "Treaty Rolls" which are represented in the reign of Edward I by eight different series, only two were in official use at the date of the second coronation of Henry VI. Within two years of the battle of Flodden, the Scotch Rolls came to an end, leaving the French Rolls to represent a specialized department of the Chancery, which produced enrolments fitfully till 1668 and entry books down to an uncertain date in the 18th century<sup>3</sup>. Of the rest the Exchange and *Liberate* Rolls together with the Redisseisin Rolls end in the reign of Henry VI, whilst the Rolls of Statutes were superseded by a new Parliamentary Record in the reign of Henry VII.

On the other hand the Fine and Pardon Rolls are continued to the Stuart period, whilst from the 16th century the regular series of

<sup>1</sup> It is scarcely necessary to include such temporary and irregular series as the *Praestita* and *Misae* Rolls of King John's reign, whilst the Coronation Rolls like the Parliament Rolls themselves are really records of a curial nature.

<sup>2</sup> Many "returnable" writs were evidently intended for preservation on the Chancery files and possibly for enrolment in the *parvi rotuli* now known as the Chancery Miscellaneous Rolls, both of which series are evidently only the wreckage of a large collection. A similar deficiency in later times, in the case of the Treaty Rolls, can be explained by the neglect of the prothonotary of the Chancery (whose office had become a mere sinecure in the 18th century) to enter instruments that were formerly preserved by enrolment in this series. Some of these "Commissions," &c. are entered in the Secretaries' Entry Books (cf. below, p. 279.)

<sup>3</sup> Cf. Reports on Chancery Offices 1740 and 1816 under "Prothonotary." Also Reports on Public Records, 1800 and 1837 under "Chancery."

Patent and Close Rolls are supplemented by other special collections. In this later period, however, as in the earlier, enrolments are sometimes found to have been made *specialiori modo* in an unexpected quarter. Thus the enrolment of the Proclamations of Henry VIII announcing the changes in the royal style consequent on the successive adoption of the formulas *Fidei Defensor*, *Ecclesiae Anglicanae Supremum Caput*, and *Hiberniae Rex* is found in the Judgment Rolls<sup>1</sup> of the King's Bench.

It may be stated as a general proposition, that whilst the various instruments enrolled elsewhere than in the series of Charter Rolls, Patent Rolls and Close Rolls are to be regarded equally with the latter as charters, writs or letters under the Great Seal, their diplomatic composition is often of a wholly abnormal character<sup>2</sup>. This is especially noticeable in the case of the so-called "Treaty Rolls," above referred to. In this large group of enrolments, in addition to the usual Letters Patent of Protection and Safe-conduct, Licences and various species of Letters Close, including even some relating to Exchequer business, we shall find many unconventional forms and a large proportion of instruments connected with diplomacy which are frequently of a notarial character.

In other cases, a special form of enrolment may be indicative of a distinct diplomatic construction, as in the case of the Parliament Rolls, Statute Rolls, Coronation Rolls, Dispensation Rolls, and Redisseisin Rolls or may merely denote, in the form of Letters Patent or Close, a special subject of ministerial interest, as in the case of the Exchange Rolls, Fine Rolls, Scutage Rolls, Pardon Rolls and Protection Rolls<sup>3</sup>.

In the case of some other enrolments, although it may be possible to trace the forms of many diplomatic instruments amongst the

<sup>1</sup> Hil. 13 Hen. VIII, rot. 14. Hil. 26 Hen. VIII, rot. 1. Hil. 33 Hen. VIII, rot. 1.

<sup>2</sup> Since this was written the greater number of these temporary series have been arranged as supplementary to the great series of Patent and Close Rolls. In addition to these a number of Extract Rolls have been described, being only secondary compilations like the duplicate Patent and Close Rolls which have also been properly placed.

<sup>3</sup> This is especially noticeable in the case of the group of fiscal instruments defined as early as the 12th century (*Dialogus*, i. vi) and entered in turn on the Close *Liberate* and even on the Gascon, Norman and Exchequer Rolls of the 13th century. The Parliament and Coronation Rolls may be regarded as the Records of *Processus tangentes Regnum*. The Redisseisin, Exchange and Dispensation Rolls appear to be the official products of certain Statutes. In the case of the last-named we have what is ostensibly an ecclesiastical diploma (*i.e.* a licence or faculty), but this was incomplete without confirmatory Letters Patent which are also enrolled. The writs of Redisseisin and the Licences and Passes as they are entered on the Exchange Rolls are for the most part in the form of departmental memoranda.



entries<sup>1</sup> which have been previously referred to as departmental minutes or docquets<sup>2</sup>, we shall gain but little diplomatic knowledge from a study of their extended forms. In this connexion it may be remarked that there have been few greater hindrances to the scientific study of historical sources than the practice which prevails so largely in the present day of describing particular diplomatic documents by technical titles. Such terms, for example, as a "Foundation Charter," an "*Inspeximus*," a "Creation" or a "*Congé d'élire*" are doubtless thoroughly descriptive, whilst it is equally convenient to distinguish common and recurring forms by such titles as "Commissions," "Precepts," "Mandates," and the like. It is not, of course, intended that these conventional titles should stand alone in the vocabulary of Diplomatic, neither do we desire that they should be regarded as anything more than varieties of recognized diplomatic species. Nevertheless few students who have not made a special study of the Chancery Records can at once appreciate the fact that documents described as "Commissions," "Precepts" or "Mandates" may be more or less interchangeable forms of Letters Patent, Letters Close or departmental writs; that an *Inspeximus* may be issued in the form of Letters Patents, or again in the very different form of a royal charter of confirmation.

A simple remedy for this confusion of terminology would be found in the consistent use, by experts, of the specific titles of diplomatic documents, the descriptive title being added in parenthesis. Thus we should speak of "Letters Patent (Commission)," "Letters Patent (Mandate)," "Letters Close (Mandate)," "Letters Patent (*Inspeximus*)," "Charter of Confirmation (*Inspeximus*)," and so forth<sup>3</sup>.

The special descriptions referred to are not indeed confined to instruments issued under the Great Seal, but are applied equally to writs under the Smaller Seals and even the Sign Manual. Here the occurrence of alternative forms makes the use of a precise terminology especially important, otherwise the student will be in danger of regarding "Benevolences" and "Passes" as specific forms equally with "Privy Seals" and Sign Manual Warrants. Again, the inevitable changes in constitutional and legal procedure effected by statute or ordinance produced a new crop of diplomatic terms before

<sup>1</sup> The Fine and Oblate Rolls (mediaeval) and the *Praestita*, *Misae* and Extract Rolls.

<sup>2</sup> Cf. above, p. 230.

<sup>3</sup> For the various forms of Letters Patent in the reign of King John see *Rot. Litt. Pat.* i. iv. sq. The facility with which technical titles may be supplied for common instruments can be seen in a formula book of the 18th century (Harl. 6702) as well as in the old handbooks of legal practice known as the "Complete Clerk," &c.

the middle of the 16th century, whilst the presence of bi-lingual or even tri-lingual versions of a common form has increased the general confusion<sup>1</sup>.

The term "Licence," for example, is applied to several species of instruments, each of which exhibits noticeable variations. The later Chancery Enrolments from the 16th century onwards have indeed owing to this altered terminology a somewhat unfamiliar aspect, though the forms of many typical instruments, such as Offices, Creations and Commissions can be traced back to a very early date<sup>2</sup>. As for the files and entry books of the Smaller Seals and the Sign Manual during the same modern period it must be said that they are greatly disfigured by an official terminology which can only be described as diplomatic slang. Here, again, it might seem desirable to employ the diplomatic descriptions, which are fortunately applicable from first to last, indicating the cant official title in a parenthesis.

#### *(b) Charters and Confirmations.*

Although the essential formulas of the royal charter can be clearly recognized from the reign of Henry II, a few final touches remained to be added before the typical mediaeval instrument reached its full development at the beginning of the 13th century.

These additions will be most noticeable in respect of the Initial and Final Protocols which usually indicate any important changes in the political position of the sovereignty or in the official practice of the Chancery. To such natural transmutations must be further added the effects of the final development of the legal or feudal theories which had governed the conditions of royal grants from a much earlier date.

On the whole, the changes both in style and theory do not amount to very much, partly, perhaps, because the necessity for their introduction is obvious.

The changes in the royal style which took place at the beginning

<sup>1</sup> The fact of the interchange of titles in the case of Charters, Confirmations, Letters Patent, Letters Close and general writs under the Great Seal, &c. and even of Writs and Letters under the Smaller Seals and Sign Manual, is sufficiently known. It may be observed, however, that although the same administrative effect is frequently produced by several distinct forms of instruments this is not always the case. A concordance of these parallel forms would be of interest and value.

<sup>2</sup> The evolution of the conventional "Office" and "Commission" can be traced by a comparison of specimens dated in the reigns of Henry II, John, Edward II, Henry VIII, and George II. See *Formula Book*, No. 53.

of the reign of John form the most familiar feature of the "conventional charter" of the 13th century. That is to say, the primitive designation of the "King of the English," &c., gives place to the feudal title of the "King of England." The secondary terms of the royal Superscriptions during the following century are regulated by purely political considerations which involve from time to time the omission of the titles *Dux Normanniae* and *Comes Andegaviae* and the acquisition of those of *Dominus Hiberniae*, *Dux Aquitaniae*, and even of *Rex Franciae*<sup>1</sup>. The Address now regularly includes the Priors in addition to the Abbots, and usually substitutes *ballivis* for *ministris*.

The Notification is invariably in the plural person, perpetuating an innovation begun in the last reign, and the Exposition takes the form of a definite "Movent clause<sup>2</sup>." Here the consideration expressed reflects the condition or merits of the recipient of the grant, whilst a religious motive is also expressed under appropriate circumstances.

In the Dispositive clause the essential words remain the same, but their arrangement is now regulated according to a stereotyped formula in the typical feoffment of the period. That is to say, the words of concession, *concessisse et hac carta nostra confirmasse*, are indicative of the nature of the grant, whilst the *Habendum et tenendum* clause defines its conditions or determines its extent, the Disposition being thus divided into two more or less distinct portions. Following these we have an injunctive Final clause beginning with the conventional *Quare volumus*, but now systematically reciting the tenor of the Dispositive clause, concluding with the general reference *sicut praedictum est*. Besides this injunctive clause, there are often other Final clauses relating to the usual Reservations of accustomed service with traces of a Remainder clause and Warranty which are in keeping with the new litigious relations between the crown and its feudal tenants<sup>3</sup>.

In the Final Protocol the formula *Data per manum—Cancellarii nostri* introduced under Richard I is replaced, after the minority of Henry III, by the well-known innovation *per manum nostram*, whilst the regnal date is exclusively employed. No variations of any

<sup>1</sup> See *Formula Book*, sections I and II, and Hardy, *Rot. Chart.*, Preface.

<sup>2</sup> Of purely constitutional interest is the frequent use of the clause intimating the consent of Parliament (*cum consensu prelatorum, &c. in praesenti Parlamento*) inserted before *concessisse*.

<sup>3</sup> Cf. below, p. 244.

importance occur in respect of the attachment of the Great Seal which is always pendent (by cords) from the folded margin; but now for the first time a purely official formula is found in the shape of a departmental memorandum describing the means by which the execution of the instrument was procured<sup>1</sup>. It must be remembered, however, that there is a well-marked, though somewhat obscure, period of diplomatic inactivity during the minority of Henry III. From November 1218 to January 1227 no charters were issued under the Great Seal, and there is a corresponding gap in the Charter Rolls for the first eleven years of the reign. Neither can we assume, as in the case of the earliest Chancery Rolls of the previous reign<sup>2</sup>, that the disuse of Royal Charters was accompanied by an increased activity in the issue of Letters Patent. It is true that the Great Seal of Henry III begins "to run" in 1218, and that, as far as Letters Patent or Close are concerned, there are no outward signs of an official stagnation. At the same time it may be fairly surmised that till 1223 the King was in a state of pupillage, and we are never certain, in default of original instruments, whether the current "Letters" were sealed with the Great Seal of the Chancery<sup>3</sup> or with some substituted seal which may have been a Smaller Seal or even the counter seal of a regent<sup>3</sup>.

With the above exception the form of the conventional charter is well maintained during the whole of the 13th century. Before the reign of Edward II several slight expansions and variants can be recognized, and these show a tendency of Letters Patent and other instruments in the same direction. One of the most noticeable of these innovations is the well-known formula *de gratia nostra speciali* which, possessing a special constitutional significance from the reign of Henry IV, occurs as early as that of Edward II. This formula, however, although it was much affected by the Continental chanceries, is not completed till the next century by the addition of the words *ac ex certa sciencia et mero motu nostris*. From the reign of Edward IV it is employed as a conventional Movent clause in typical grants, whilst a further variation is noticed under Henry VII<sup>4</sup>.

<sup>1</sup> *Per breve de Privato Sigillo, &c.* See above, p. 230.

<sup>2</sup> An interesting series of original writs in Exch. of Rect. warrants for Issues, Bde 1, confirms the evidence of the Chancery enrolments as to the vicarious attestation of royal instruments during this minority.

<sup>3</sup> See *Formula Book*, No. 126, and cf. the interesting remarks on this subject by Mr F. M. Powicke in *E. H. R.* XXIII. p. 220. Amongst other substituted seals we find that of the City of London utilised in Pat. 5 Hen. III, m. 2<sup>d</sup>.

<sup>4</sup> *Et certis considerationibus nos specialiter moventibus.*



Another familiar formula which dates from the reign of Edward II is the motive expressed in Creations or Grants of Office<sup>1</sup>—*pro grato et laudabili servicio quod dilectus et fidelis noster A. nobis hactenus impendit*, an expectation of continued service being often added. Another expansion (*per praesentes*) which became fashionable in the 15th century is apparently a mere variant of the old form *praesenti carta* which had been to some extent discontinued since the reign of Henry III. Of a purely legal character is the Reservation *quantum in nobis est*, frequently found in charters of pardon and licence, as well as in Letters Patent of the same nature, from an early date, and the development of legal procedure in the 13th century easily accounts for several modifications and innovations of this kind<sup>2</sup>.

From the middle of the 15th century the florid variants in the Narrative and Dispositive clauses of certain charters, particularly of Creations<sup>3</sup> are very marked; but by this date the royal charter has become a mere echo of the Letters Patent, in which, from the first, many eccentricities of style were allowed. The Address of the later charter was also subject to variation. Dukes are added to the usual list under Edward III, but still later the Address was frequently modified in several particulars, as the circumstances of the case might demand. Thus Constables are included in the case of charters to towns, just as Foresters were included in the Disafforestation charters of the 12th and 13th centuries. Again, the Universal Address at the close of the 15th century had become still more explicit, but on the other hand, an Address that is appropriate to a Charter is sometimes found at this date to be followed by execution in the style of Letters Patent. Finally, we may notice that before the disuse of royal charters in 1516, the ancient injunctive Final clause (*Quare volumus*) is lost to sight in the presence of the new statutory clauses designed for the protection of royal interests against greedy and unscrupulous supplicants, which also afforded the deserving grantee some immunity from legal chicanery and official extortion<sup>4</sup>.

<sup>1</sup> This is sometimes preceded by a clause closely resembling a Preamble.

<sup>2</sup> It will be noticed that in the case of the numerous enlargements of the later grants by means of new paragraphs beginning *Insuper*, *Prieterea* or *Uterius*, the Movent and Dispositive clauses are usually repeated in each case, thus removing the objection to similar digressions taken in the case of Anglo-Saxon and Anglo-Norman charters (cf. above, p. 224).

<sup>3</sup> e.g. *Ordinavimus, constituimus, appunctavimus, ereximus*, &c. cf. *Habendum, tenendum, utendum et gaudendum*, &c. In some cases the variants are of a simpler nature, as, *in tam amplis modo et forma*, &c. which is concise by comparison with the Anglo-Norman *Ita bene*, &c.

<sup>4</sup> e.g. *Eo quod expressa mentio*, &c. by virtue of the Statutes 1 Henry IV and 18 Henry VI (cf. *Rot. Parl.* III. 376 a). The other well-known clauses above referred to are *Et de data predicta* (according with the date of expedition of the Privy Seal Warrant), *Non obstante aliquo statuto*, &c. and *Et hoc absque fine*, &c. in *Cancellaria*, &c.

One of the most interesting, but at the same time one of the most obscure incidents in the evolution of the charter is connected with the gradual displacement of the conventional form by a substituted instrument. This is the Patent, in its familiar sense, which has achieved a virtual supremacy over the ancient charter before the close of the 13th century. At first this dual method of diplomatic composition was the cause of some confusion. Indeed, in certain cases a grant which should have been made in the form of a charter was executed in the style of Letters Patent. Entries of such grants may be found on the Chancery Patent Rolls, cancelled, with the note, *Quia in rotulo Cartarum*. At the same time it should be observed that these grants were not only sparingly made before the reign of Edward I, but also in most cases they are of an exceptional nature. Charters conveying grants of hereditaments or liberties to ecclesiastical or lay corporations are still made out in the ancient form, but gifts of forfeited estates<sup>1</sup>, provision made for the support of royal princes or household officers, custodies and estates not granted in perpetuity, were considered fair subjects for the issue of Letters Patent<sup>2</sup>. These instruments were also used for recording contracts or other financial transactions between the crown and the subjects, and in such cases it is not unusual to find *Noveritis* as a notification in place of *Sciatis*, according to an earlier precedent.

On the whole, however, the form of these Letters Patent is far more regular and consistent than that of the royal missives to which the same title is applied. This perhaps is the reason why the former out-lived the latter in the possession of that title, ousting them from the stately membranes of the Patent Rolls to a humbler place amongst the bundles of State Papers for the Tudor and Stuart periods. Nevertheless, the most artificial form of Letters Patent of donation can only be regarded as a substitute for the conventional formulas of the charter, and even the florid expansions of these new instruments are merely refinements of an earlier diplomatic practice<sup>3</sup>. As early as the reign of Henry III we meet with specimens of Letters Patent *eleganter scriptae*<sup>4</sup> in the style of the Papal Curia and in the pedantic atmosphere of the Court of James I the Patent employed to confer a dignity or office had become a Euphuistic essay<sup>5</sup>. Indeed it might be

<sup>1</sup> These, however, might be made by Letters Close for livery of seisin.

<sup>2</sup> Cf. *Formula Book*, pp. 24, 54.

<sup>3</sup> Many of the grants to royal princes or favourites contain elaborate provisos and reservations, cf. *Quod haec gratia nostra non cedat in prejudicium vel exhereditationem, vel trahatur in consequentiam*, &c. Cf. *Formula Book*, No. 44.

<sup>4</sup> Pat. 45 Hen. III, m. 4 in *cedula*.

<sup>5</sup> Some of these embody discourses on various points of scholarship.

fairly questioned whether the charter of the 15th century has derived its variations from the Patent or whether these have been simply copied from the charter itself by the latter instrument<sup>1</sup>. Perhaps the soundest view of the matter is that the really characteristic formulas of the Patent writ are the Address and especially the Attestation. The gradual omission in both Charter and Patent of a distinctive Injunction<sup>2</sup> and the occasional use of a common Attestation indicate the approaching amalgamation of the two instruments as early as the last decade of the 15th century.

It is well known that in its latest phase the Patent is concerned only with grants of dignities, offices and privileges, the reason for this being found in the constitutional limitations imposed upon the royal prerogative in respect of the crown lands<sup>3</sup>. But long before the advent of the Civil List the number of the royal grants of land had fallen in keeping with the exhausted resources of a personal monarchy.

The suggestion has frequently been made that the custom of confirming royal charters, especially in the case of municipal corporations, may be derived from the practice of the Roman Empire<sup>4</sup>. As, however, this supposed analogy is not confirmed by diplomatic evidence, it need scarcely be considered here. Some difficulty might even be found in discovering satisfactory precedents for such Confirmations under the Anglo-Saxon monarchy, since the reputed Confirmations of this period are not only of doubtful authenticity, but must be regarded, in some cases at least, rather as Innovations than as Confirmations<sup>5</sup>. It is, indeed, not unreasonable to conjecture that the very irregularity which has been noticed in the case of the earlier post-Conquest Confirmations<sup>6</sup> is indicative of a novel practice. As late as the reign of King John a conventional formula is not invariably used. The Confirmations of the latter part of the 12th and of the early years of the 13th century are, however, equally characterised by simplicity of form.

<sup>1</sup> Above, p. 238. After the disuse of the conventional charter in 1516 these variations are continued with equal facility by the clerks of the Patents. As late as the reign of Charles II we have an elaborate Movent clause introduced by the word *cum* and the Dispositive clause is divided into successive paragraphs.

<sup>2</sup> *Et ideo vobis mandamus*. Similarly the later charters drop the distinctive Injunction *Quare volumus*, &c.

<sup>3</sup> 1 Anne, c. 1.

<sup>4</sup> *Nouveau Traité*, i. 176; Hardy, *Rot. Chart.*-i. iii.

<sup>5</sup> Apart from the obviously suspicious character of these transactions, it will be noticed that the existing texts are almost invariably preserved in cartularies or chronicles. Examples will be found in the case of Winchester, Canterbury, Abingdon, Croyland, Peterborough, St Paul's, Chertsey, &c. Even the Worcester register (Heming) is not to be relied on in this connexion.

<sup>6</sup> *Formula Book*, p. 41.

In these instruments two devices are usually employed. By the former a mere notification is made of a particular or general concession on the same terms as those contained in a previous charter or charters<sup>1</sup>. By the second the body of the former charter is re-issued in almost identical words with new protocols for the royal style and attestation<sup>2</sup>. Finally, it may be observed that the royal Confirmations of this period include a large proportion of private donations, and numerous individual charters may be included in a single Confirmation<sup>3</sup>.

Such was the practice of the English Chancery down to the 11th year of Henry III, when, as is well known, a new expedient was resorted to. This change was perhaps unconsciously necessitated by the Proclamation of 6 Nov. 1218 forbidding any charter or grant in perpetuity to be issued under the Great Seal by reason of the king's minority<sup>4</sup>. This was followed, as we have seen, in January, 1227, by the further announcement<sup>5</sup> that all existing charters must be confirmed under the new Great Seal, in compliance with which we must assume that the Confirmations entered on the Charter Rolls of this year were duly executed.

The *Inspeximus* used for this purpose was perhaps not altogether a new device, although it is true that it must not be confused with the analogous system of *Vidimus* employed in the French Chancery<sup>6</sup>. Whilst we may safely reject the picturesque account of the origin of the new formula in the reign of Henry II, which is preserved in the *Chronicle of Battle Abbey*<sup>7</sup>, it should be remembered that the formula

<sup>1</sup> The *Sicut* clause, cf. p. 213 and *Formula Book*, Nos. 36-43. Since this was written M. L. Delisle has made some interesting remarks on the subject of "innovated" charters in the 12th century (*Bibl. de l'École des Chartes*, loc. cit.).

<sup>2</sup> In some cases this was intended to condone the effects of non-user, covered in later charters by the *Licet* clause.

<sup>3</sup> *Formula Book*, No. 42.

<sup>4</sup> Pat. 3 Hen. III, m. 6.

<sup>5</sup> Close 11 Hen. III, pt. 1 m. 21<sup>d</sup>. Possibly a large portion of the existing collection of official transcripts known as the *Cartae Antiquae* was prepared at the Exchequer in this connexion. Similarly the Edwardian transcripts known as Deeds Various are perhaps connected with the proceedings by *Quo Warranto* in 1278. As for the official production of charters at a still earlier date cf. *Dialogus*, I. viii.

<sup>6</sup> It has been argued that the French instrument was primarily intended for the innovation of damaged charters, &c. a purpose served in this country by the Exemplification, *Constat* and *Innotesimus*. This, however, is scarcely a just distinction. Curiously enough the *Vidimus* has played a useful part in the English official system down to modern times, since certain instruments, notably Protections and Passes, were duplicated or registered by this authority and are still described as *visés*.

<sup>7</sup> Ed. 1846, p. 165, where we have an extravagant description of a scene in the Curia, about 1175, to furnish a plausible occasion for one of the forged charters of this house.



*Inspexi* was occasionally used during the reign of John. For the most part, however, the *Inspeximus* was a confirmation not of an earlier grant, but of a Confirmation of that grant, for comparatively few original charters remained unconfirmed at the beginning of the 13th century. As the chief interest of the Confirmation itself lies in the tenor of the original charter which it perpetuates, so the actual formulas of the *Inspeximus* contain little that is worth our attention. Indeed, it is necessary to insist that beyond the official formulas which enclose, as it were, the original instrument recited, the formal *Inspeximus*, like the Confirmation, supplies no independent variations of diplomatic construction with the exception of an occasional addition to the grant. These official formulas will be found in the case of the conventional *Inspeximus* to consist of a Notification, which gives its title to the instrument, and a Dispositive clause, which is merely declaratory of the act of confirmation. This official pronouncement is certainly stronger than the casual allusion of the earlier Confirmation, and the same effect was produced by the further expedient of an *Inspeximus* by Letters Patent.

The substitution of this new form for the conventional *Inspeximus* is a fresh triumph of officialism. As early as the reign of Henry III we find a general confirmation of civic liberties granted as an additional clause to Letters Patent of Protection<sup>1</sup>. Possibly we have in such Letters of Protection one explanation of the transition from the form of the charter to that of the writ in the case of later Confirmations<sup>2</sup>. It is only natural to suppose also that the difficulty (which still apparently exists) in distinguishing between an original grant and a confirmation of an earlier period may have suggested to 13th century clerks the use of a purely official instrument<sup>3</sup>. The mere innovation of an ancient charter with the necessary changes of style and date was liable to serious abuse, and although some confusion seems to have been caused by the substitution for the ancient Confirmation of an *Inspeximus* by charter and then of the ordinary Patent formula, the system worked smoothly under the skilful administration of the later Chancery. In a still later

<sup>1</sup> Pat. 1 Hen. III, m. 1. *Omnes barones Londoniæ habent litteras patentes domini Regis de Protectione addita hac clausula*. The usual formulas of a conventional charter of confirmation follow.

<sup>2</sup> Similar Letters Patent of Protection reciting charter formulas are sometimes entered on the Charter Rolls of this reign. In the reign of Henry III these Protections are still found in the form of charters.

<sup>3</sup> The form of the *Inspeximus* by charter or by Letters Patent was prescribed by an Ordinance of 1285 printed in the Statutes from the Close Roll 13 Ed. I, m. 7 *in cedula*, where, however, it is no longer to be found.

period we notice a tendency to revert to the general allusion employed in the earliest type of Confirmations. Here a succession of eleemosynary grants may be compendiously recited and admitted under a narrative Exposition<sup>1</sup>. It will be found that the special Dispositive clause of the charter type was retained in substance in the new *Inspeximus* by Letters Patent<sup>2</sup> and reappears with suitable modifications in the Exemplification, the *Constat* and the *Innotescimus*. Of these the first may possibly have been derived from the early custom of permitting the enrolment of private muniments on payment of a fee. We know that copies of such documents were carefully preserved in private registers, and the pleadings recorded in the Courts were also frequently noted. As early as the year 1372 the public right of search amongst the Records was successfully asserted by Parliament<sup>3</sup>, and this included facilities for Exemplifications. Again, original instruments were not only duplicated as a precautionary measure from an early period, but Exemplifications were sometimes obtained from a like motive<sup>4</sup>. It was not till the end of the 14th century that this informal practice was legalised by Statute<sup>5</sup>, nor did it reach its fullest development until the middle of the 16th century<sup>6</sup>. From the first, however, it seems to have been understood that the Exemplification was properly concerned with private diplomata and legal records. The innovation of royal diplomata was effected by a special instrument, the *Constat*<sup>7</sup>, though this was equally employed for certifying other records<sup>8</sup>.

The *Innotescimus* was used in a less ceremonious fashion and may perhaps be regarded as a mere survival of the older *Notitia* used for a special purpose. This might be either the innovation of lost charters, or the allowance (or suspension) of a particular privilege (e.g. the clause *Volumus* in Letters Patent of Protection). The *Innotescimus*,

<sup>1</sup> *Nos intelligentes qualiter dominus, &c. [Edwardus I] et alii progenitores nostri nuper Reges, &c. temporibus suis, separatim et successive, per litteras suas patentes, ex caritate et elemosynis suis, concesserint, videlicet, quilibet eorum pro tempore suo, &c.*

<sup>2</sup> The *Forma Confirmationis* above referred to gives suitable formulas for different species of charters. The value of these, however, is purely legal, and the form of *Inspeximus* and execution is the same in all cases. The chief interest of this ordinance lies in the alternative formula of execution of a charter or Letters Patent.

<sup>3</sup> *Rot. Parl.* II. 314<sup>b</sup>.

<sup>4</sup> *Owens Coll. Hist. Essays*, p. 201.

<sup>5</sup> 6 Ric. II, Stat. i, c. 4.

<sup>6</sup> Stat. 3 and 4 Edw. VI, c. 4, and Stat. 13 Eliz. c. 6.

<sup>7</sup> The *Constat* was chiefly used in early times for certifying the tenor of a Record. In later times charters for markets, &c. were brought into evidence by means of this certification (cf. D. of L. Drafts of Patents, &c. No. 53), but these facilities are specially applicable to Letters Patent.

<sup>8</sup> As to the meaning of *sub pede sigilli* in this connexion cf. L. O. Pike in *N. and Q.* 8th Ser., XI. 303.

however, was also used for granting a testimonial or diploma. In these instruments the Movent and Executive clauses contain a recital of the peculiar circumstances of the case<sup>1</sup>, but the line drawn between innovated charters and those that were often produced under suspicious circumstances and presented for inspection in the usual way can scarcely be distinguished in the present day. Even if we regard the ordinance of 1285 as a measure of reform, this implies an admission of existing abuses. It is at least certain that no adequate scrutiny was instituted by this or any other official provision for the confirmation or renovation of former grants, and it is doubtful whether a critical apparatus for such a scrutiny existed in this country before the 17th century<sup>2</sup>. Even in our own time such scrutiny is rarely applied to these diplomata, the continued use of which as an unexpurgated source of national history is to be regarded with sincere regret.

The private charters and other diplomatic instruments which form the class of "Ancient Deeds" deposited amongst the official archives have been already referred to as extraneous documents only indirectly connected with the present subject<sup>3</sup>. Previous to the reign of King John these diplomata are almost wholly represented by specimens casually acquired by the crown or enrolled for a mercenary consideration. In a later period, however, many of these forms are either incorporated in royal instruments<sup>4</sup> or are used independently for semi-official purposes<sup>5</sup>. The sordid view of the later Plantagenet sovereign as a private adventurer and sharp practitioner, as a borrower, lender, fortune-hunter, trafficker in bonds and sureties, or even as a manipulator of title deeds and testaments<sup>6</sup>, has a new interest for us; but the official character and position of these transactions have yet to be determined. It must therefore suffice for the present to call attention to the originals, transcripts and enrolments of private deeds which have been preserved in vast numbers amongst the Records of the Exchequer and other departments<sup>7</sup>. The semi-official forms above

<sup>1</sup> See *Formula Book*, Nos. 45, 62.

<sup>2</sup> Cf. the instances given in Hardy, *Rot. Chart.* i. vi, to prove that the Chancery had a large discretion for the issue of charters and that the subjects had come to regard the issue of certain instruments as a matter of course, and therefore as a matter of right, on payment of the usual fees, except in the case of unworthy persons or for illegal purposes. Very much the same position has arisen in the present day with regard to the issue of passports.

<sup>3</sup> Above, p. 59.

<sup>4</sup> Cf. *Rot. Chart.* (John), *passim*.

<sup>5</sup> Cf. *Red Book*, p. cccxi, and *Formula Book*, p. 129 sq.

<sup>6</sup> e.g. in the *Libri Munimentorum* of the Exchequer (ed. Palgrave, *Kalendars*), formerly connected with the Wardrobe, cf. T. F. Tout in *Transactions R. Hist. Soc. (N. S.)*, VIII. 129.

<sup>7</sup> *Deeds Enrolled* (Chancery, King's Bench and Common Pleas). Also in Exch. Plea and Memo. Rolls and Augm. O. Books. Also (*specialiori modo*) in the Exchequer Registers. Similarly in the Lesser Courts (Palatinates, &c.) and Registries of Deeds.

referred to may be found in the rolls of the Chancery and Exchequer and in the precedent books of those Courts. At the same time it will be possible to trace the influence of certain of these instruments, drawn with consummate skill by shrewd and learned men of business, upon the forms of the royal Chancery itself. The legal pedantry (as some would call it) of the age is reflected in the warranty clauses of royal grants and in the releases drawn on behalf of the crown in its dealings with the feudatories. Doctors learned in the civil and canon law drafted conventions with foreign princes or repartees to the papal curia, and royal merchants introduced refinements in the bond or recognizance which were turned to good account in official circles. These innovations are of interest if only because they serve to remind us that in spite of the decadence of the ancient diploma the art of diplomatic composition, reinforced by legal subtlety, attains its highest point of development at the close of the 13th century. It is well known that these private instruments furnish a multitude of diplomatic forms. But although the terminology of these is well established, a detailed description of their diplomatic construction cannot be attempted here. Reference will, however, be made to their official position elsewhere<sup>1</sup>. The study of their diplomatic composition can be facilitated by several well-known handbooks and by recourse to the collection printed by Madox<sup>2</sup>.

In the first place, then, we may regard direct Feoffments in the shape usually of single charters or Deed-polls, as following the same plan of diplomatic construction. On the other hand, certain "indirect" Feoffments, though possessing the legal quality of conveyances, assume a diplomatic form which is closely assimilated to that of the Convention. These "indirect" Feoffments are the "Release," "Quit-claim," or "Surrender," whereas the true Convention, as a covenant or contract, includes the various forms of "Concord," "Composition," "Bond," "Oath" and "Letters of Attorney," many of which are duplicate charters, known as "Cyrographs" or "Indentures" forming a great class of "Ancient Deeds."

Outside these two main groups there is the so-called "Certificate," a convenient title for the classification of an irregular diplomatic variant of the "Feoffment" or of the "Convention<sup>3</sup>." The "Petition," with the "Address" or "Memorial," is clearly distinguished by its epistolary character even when employed as a draft in the preparation of an instrument issued under the Great Seal. These documents,

<sup>1</sup> Appendix.

<sup>2</sup> *Formulare Anglicanum*.

<sup>3</sup> A certificate might, however, resemble the modern document so called as a statement of facts within the knowledge or belief of the writer.



however, for our present purpose must be regarded as of a semi-official nature.

Although it is generally assumed that the royal diplomata served as models for all private charters, there are several familiar types of public instruments which are apparently derived from private forms<sup>1</sup>. These instruments it will be further noticed are connected with the official practice of the Courts rather than with the procedure of the royal Chancery itself. The common forms of the "Convention" and the "Oath" may indeed be found amongst the State Papers of the earlier period, and we have already noticed the official use of the forms of private deeds such as "Quit-claims," "Releases" and "Surrenders." Again, the position of the whole body of diplomatic instruments in private law would seem to render this question of precedence immaterial. At the same time there are certain types, such as the "Fine" and the "Recognizance," which have attained a paramount official position by reason of their frequent employment for curial business, for, although the "Fine" is essentially a legal record, its diplomatic form may be traced back for several centuries as a "Final Concord," "Convention" or "Composition," which possesses well-defined diplomatic features of its own<sup>2</sup>. The "Recognizance<sup>3</sup>," indeed,

<sup>1</sup> Many such conventions in connexion with diplomacy and politics will be found amongst the Patent Rolls and Treaty Rolls of the 13th century. A bond for faithful service was a formidable instrument (cf. *Red Book*, p. cccx), and some interesting political conventions may be seen in the Charter and Patent Rolls of the reign of King John. A familiar instance of the private Convention adopted for official purposes will be found in the case of the "Indenture of War," and the indentures for the receipt or transfer of jewels and records (*Palgrave, Kalendars, passim*, and *Formula Book*, Nos. 147, 148).

<sup>2</sup> The "Fine," as we have seen, is an official instrument which recalls the general style of the Old English convention though it derives its actual formulas from the Roman law. For its connexion with the diploma of the 12th century cf. L. Delisle, *Bibl. de l'École des Chartes*, *loc cit.* The reconstruction of this "inverted diploma" is, of course, an easy task. In its judicial aspect, however, the "Fine" must be regarded as a record of the King's Court from first to last. That is to say, the writ to commence the action and the licence to compound it are essential parts of the proceedings commemorated in the "principal record" or cyrograph, which is no mere home-made charter, but compiled on the same plan as other formal records. On the other hand, we have the analogy of the *Archa Judaeorum*, and the punctilious execution of a triplicate Concord, the original of which, formally handed in for registration, is now represented by the official "Foot" (cf. below, p. 313).

<sup>3</sup> The "Recognizance" which may be found in official enrolments or entry-books is frequently of a purely official nature. The Bonds entered into by nearly all office-holders furnish a large number of these entries, whilst contractors and even tenants of the crown-lands are represented here. In later times the simple Bond, or the Defeazance, may be replaced by a statutory Warrant of Attorney or *Cognovit*, namely a bond given by a debtor for the purpose of enabling a creditor to secure preferential treatment against other creditors, and many thousands of these Warrants were filed amongst the records of the King's Bench and Common Pleas. Far more interesting instruments of this nature, however, were those executed under the Statute of Merchants of 1283 and the Statute of the Staple of 1353, the certificates for which are referred to below.

differs but little in its diplomatic composition from the "Bond," though the conventional style is fixed at an early date, and this conventional form in turn serves as a model for later judicial and commercial instruments such as the "Affidavit," "Mainprise" and the "Statute Staple<sup>1</sup>." Moreover, Recognizances are consistently enrolled, a circumstance which lends an official character to other instruments, including "Letters of Attorney" and "Oaths<sup>2</sup>." Another class of semi-official documents is of a still more miscellaneous character. These are the Certificates made out by various local officers in compliance with some statute or departmental routine. During the mediaeval period, however, such instruments if not made as returns to Inquisitions<sup>3</sup> were usually in the form of Deeds, Letters Patent, or Signed Bills<sup>4</sup>. Some later types will be familiar in the case of "Certificates of Residence<sup>5</sup>," "Blood-Money Certificates," Sheriffs' "Bills of Cravings<sup>6</sup>," "Certificates of Musters<sup>7</sup>," "Sacramental Certificates<sup>8</sup>," "Passing Certificates<sup>9</sup>," and many others. None of these Certificates were enrolled in the Chancery since the originals, made out by local officers, were intended for preservation<sup>10</sup>. In some cases, however, documents of this nature were

<sup>1</sup> Amongst the earliest and most important of these semi-official collections of Bonds or Recognizances and Acquittances are those connected with the Exchequer of the Jews. These Records consisting of Bonds by Christian debtors to Jewish creditors, and Acquittances of the latter to the former were carefully preserved in the "Archives" of the Exchequer. These Bonds are in the usual diplomatic form, but were executed with details which savour of the Civil Law, in the presence of the officials of the *Archa*. The "Starra," on the other hand, were variously composed in Latin, French, or Hebrew and were signed by the peregrine creditor in Hebrew characters and also sealed, but unless enrolled they were invalid (cf. *Select Pleas of the Jewish Exchequer* (Selden Soc.), Gross, *Exchequer of the Jews*, and Jacobs, *Jews of Angevin England*). In later times the registration of private mortgages has been confined to the counties of Midds. and Yorks., but modern abstracts of Deeds of Settlement, &c. have been preserved at Somerset House for purposes of Revenue.

<sup>2</sup> The official history of the Oath is still more extensive, cf. *Red Book*, p. cccix sq., *Report on the Public Records* (1800), p. 236 sq., Palgrave, *Scottish Documents* (*passim*). For the oath of Councillors see J. F. Baldwin in *E. H. R.* xxi. 1. For the later oaths of Justices of the Peace, &c. see S. P. Dom. Entry Book 72, fo. 313 and 333. In another aspect the oath of allegiance, or office, may take the form of a statutory certificate as in the case of "Acknowledgments of Supremacy" and other "Tests."

<sup>3</sup> e.g. "Proofs of Age" (cf. Palgrave, *Kalendars*, I. 162), Certificates of Homage (T. of R.) and Certificates of Knight Service (*Red Book*, Vol. 1.).

<sup>4</sup> e.g. Household officers' Assignments, Customers' "Cokets," and Wardrobe "Deben-tures," for which see *Formula Book*, p. 122 sq.

<sup>5</sup> Amongst the Subsidies.

<sup>6</sup> Exchequer Records (see Scargill-Birds' *Guide*).

<sup>7</sup> Amongst the State Papers.

<sup>8</sup> In the Petty Bag and elsewhere.

<sup>9</sup> Admiralty Records.

<sup>10</sup> The notarial Diploma, as seen in the well-known instance of Grants of Arms by the Officers of Arms, is in the nature of a Certificate issued by virtue of royal Letters Patent (cf. *Formula Book*, No. 140).

entered in precedent books<sup>1</sup>. In most cases, however, they were simply filed, and a large collection of interesting evidences has been preserved in this form. Amongst these are the certificates of Mayors of towns and Staples reporting the failure of debtors to meet the recognizances entered into by them in accordance with the statutes of Acton Burnell (1283), Westminster (1285) and the Staple (1353) and invoking the assistance of the sheriff to compel payment by legal process<sup>2</sup>. The series of certificates known as *Significavit*s represents the interests of another class of the community, being reports from the officials of the ecclesiastical courts as to the contumacy of lay offenders in despite of ecclesiastical censures, which were not removed till the beginning of the last century. These also conclude with a formal request for the aid of the "secular arm<sup>3</sup>." Of a more formal nature are the Certificates of Institutions to ecclesiastical benefices. Other instances of the Certificate in its primitive official sense as a *Notitia* will be found amongst the documents collected by Madox in his *Formulare Anglicanum*.

Amongst other well-known instruments of private origin which have been preserved in official archives we might include such quasi-diplomatic forms as Petitions<sup>4</sup>, and Specifications<sup>5</sup>, Parliamentary Proxies and Pawns<sup>6</sup>, Pensions and Corrodies<sup>7</sup>, and many others; but the diplomatic value of these is of small consequence unless it were to illustrate the important and often unsuspected part played by the Petition in the issue of a Charter or Writ<sup>8</sup>.

<sup>1</sup> Cf. *Red Book* and *Black Book* of the Exchequer. Palgrave, *Kalendars*, from which a very instructive list of diplomatic titles and variants might be compiled, S. P. Dom. Entry Book 72 and H. O. Precedents, 1-5.

<sup>2</sup> Cf. *Formula Book*, Nos. 135-137.

<sup>3</sup> A series of Petitions for the arrest of "Vagabond monks" is preserved amongst the Chancery Warrants (cf. *Formula Book*, No. 87 and No. 139).

<sup>4</sup> Filed during the mediaeval period and entered on the Parliament Rolls.

<sup>5</sup> *i.e.* of Inventions enrolled on the Surrender Rolls, &c.

<sup>6</sup> Enrolled in the Petty Bag (ed. Dugdale, *Summons to Parliament*, cf. *Formula Book*, p. 82).

<sup>7</sup> Cf. Cardinal Pole's Pension Book (K. R. Misc. Bk. 31), and Templars' Corrodies (ed. Cole, *Documents*).

<sup>8</sup> In addition to the conventional sequence of Petitions (cf. *Formula Book*, Nos. 88-93), connected with the issue of a *Congé d'élire*, "Royal Assent," or "Restitution of Temporalities" many others will be found amongst the "Ecclesiastical Petitions," *e.g.* for licenses to found chantries, &c. Indeed the certificates described above in connexion with statutory Recognizances might be regarded, like the ecclesiastical *Significavit*, as virtual Petitions for Letters Patent or Writs of Assistance under the Great Seal.

(c) *Writs under the Great Seal.*

Like the charter itself the ancient executive writ may be regarded as surviving in a conventional form from the 13th century onwards<sup>1</sup>. At the same time we shall find that its construction and use have been completely revolutionized under the new order of things brought about by the organization of the Chancery department in the reign of John. Instead of a general type of writ, royal or departmental, to serve all purposes of administration, justice or finance, we can distinguish from this date an increasing multitude of types to which certain diplomatic titles have been applied.

For a long time past the missive writ has been employed, sometimes as a precept, and at other times as a certificate, whilst its affinity to the mediaeval letter is sufficiently obvious. A good instance of this interchange of character and terminology is seen in the Writs and Returns connected with the Inquest of Knights' Service in 1166. Here the king's writ was apparently addressed to the sheriff of each county who notified the military tenants of its purport, either individually or in the County Court. The returns made to the writ were also apparently delivered to the Sheriff and transmitted by him to the King. No specimens of the above writ have survived, but it can be reconstructed with some probability from the existing returns<sup>2</sup>. It seems to have been regarded as a "precept" or "mandate," but it is also described as a writ (*breve*) or letter (*litterae*). The Return was in the form of Letters Patent (*breve sigillatum et apertum*) with the seal pendent (*pendens extra sigillum*). It is variously described as a *carta*, *scriptum*, and *breve*, but is in fact a certificate in an epistolary rather than diplomatic form, for the execution was not attested.

There is no evidence to show whether the royal writ issued on this occasion was a departmental one, namely "tested" at the Exchequer where the returns were preserved and used; but a long series of such writs were issued during the following century in an almost identical form<sup>3</sup>. To this type of administrative writ no special title has been applied, and we may perhaps regard it as a conventional survival of

<sup>1</sup> "Letters Patent" of Henry II are confirmed by John and it is at least certain that the term is used in the English Chancery from the first year of that reign, that is to say two years before the series of Patent Rolls begins. For the analogy of the contemporary practice of the French Chancery cf. Giry, *Hist. de Diplomatique*, p. 755 sq.

<sup>2</sup> See *Red Book*, p. 412. This has been cleverly demonstrated by Mr J. H. Round.

<sup>3</sup> *Testa de Nevill, passim*. In some cases (fo. 416b) the returns, made in precisely the same form as in 1166, are described as *Litterae Patentis*.



an older form<sup>1</sup>. It will be noticed at once that we have to do here with a writ the issue of which does not conclude the matter under the royal consideration. For this purpose a Return is required, and therefore the writ in question belongs rather to the class of "Original Writs," or Writs of Inquisition, than to the present class of declaratory instruments such as Charters, Letters Patent and Letters Close. The Writ of Inquisition itself, however, must be regarded as a type of the primitive form from which the Chancery "Letters" were gradually evolved. Moreover, it will receive a further separate description<sup>2</sup> in connexion with the Return, which in many cases constitutes an actual Record. Similarly, it is desirable to defer a notice of the Original and Judicial Writs which are usually associated with the class of Judicial Proceedings.

The official title of the Letters Patent has been derived with much probability from the circumstance of their issue in an open state, in distinction to the closed missives under the Great Seal, which will be presently referred to. The same term has been applied to the elongated writing of the initial words of certain diplomata<sup>3</sup>, but this practice is of purely foreign origin. It may also be noticed that the term "patent" was frequently applied to private diplomata of an especially formal nature<sup>4</sup>. The title of these instruments is also descriptive of their general resemblance to letters or writs rather than to charters<sup>5</sup>, but their most distinctive feature is perhaps the famous Dating clause which introduces a foreign element in the shape of an announcement of due execution<sup>6</sup> and a new departure in the personal Attestation of the sovereign<sup>7</sup>.

The origin and meaning of the latter formula have been the cause of considerable discussion<sup>8</sup>. It is obvious, however, that *Teste me ipso*

<sup>1</sup> We shall presently see that this administrative writ was frequently replaced, from the reign of Edward I, by writs of Privy Seal in the same form.

<sup>2</sup> Below, p. 293.

<sup>3</sup> *Litteris Patentibus* signified in "large letters." In distinction to this phrase we have the official formula *Littere sunt patentes* to indicate the execution of Letters Patent.

<sup>4</sup> Cf. *Pateat universis per presentes*.

<sup>5</sup> The ancient and important Writ of Right was always Patent in the sense of being open. A special reason for the use of Letters Patent in certain cases is indicated by the following explanation which announces the execution of a writ of the year 1199. *Hoc vobis significamus per litteras nostras patentes, quia volumus quod idem utrique parti innotescat*. It would certainly be only reasonable to suppose that in the case of writs the missive in the first place was folded and despatched secured by a ligament cut from the lower margin of the parchment, were it not for the positive distinction implied between writs open and closed. The supposed distinction in the use of a conspicuous pendent seal for the former, is open to question.

<sup>6</sup> *In cujus rei testimonium has litteras nostras fieri fecimus patentes*.

<sup>7</sup> *Teste me ipso*.

<sup>8</sup> Hardy, *Rot. Claus.* i. xviii.

and *Teste Rege* are convertible formulas, the latter being employed as a narrative statement with a further abbreviation in the case of the letters T. R. which usually appear in Chancery enrolments. It is unnecessary to suppose that the use of this formula implies that the instrument was "procured" by the King, since such intervention is indicated by a distinct notice<sup>1</sup>. It must, however, be carefully distinguished from the Dating clause of charters<sup>2</sup> and the Attestation of other instruments such as departmental or judicial writs, which affect an older style. Whether this innovation was deliberate (to facilitate the operations of the Privy Seal) or whether it was only a casual practice acquired by observation of the persistent habit of Chancery clerks who used the royal style impersonally in preparing their official enrolments<sup>3</sup>, is a question that cannot be easily answered. It may be observed, however, that as this new formula constitutes an important landmark in the history of English Diplomatic, and as it affected something like a revolution in the method of executing official documents, it can scarcely be regarded as specially characteristic of Letters Patent. A far more distinctive formula is seen in the Address to all persons concerned, and this with the announcement of sealing above referred to, may be regarded as essential features of the conventional Patent.

It must not be supposed, however, that the typical formulas of Letters Patent were suddenly evolved from the conventional charter or writ of the 12th century. In the first place, we have seen that the use of an open writ was no novelty in the reign of John and that even half a century earlier an equivalent phrase was employed to denote this characteristic. It would seem, then, that this essential condition having been thus early observed, the precise wording of the several clauses was for some time to come regulated by the circumstances of each case. Even the universal Address invariably found in later Patents was comparatively rare during the early years of the 13th century in the case of missive writs. Like the executive writ or later Letters Close, these early precepts are usually addressed by name to the officials concerned in their execution. The Exposition or Movent clause, which in the Edwardian period is frequently elaborated in a marked degree, is scarcely noticeable in the earliest

<sup>1</sup> *Per ipsum Regem, &c.*

<sup>2</sup> *Data per manum nostram*, or (from 1189 to 1225) *per manum—Cancellarii*.

<sup>3</sup> It might, therefore, be argued that just as *Rex &c.* represents *A. Dei gratia Rex Angliæ, &c.*, so *Teste Rege (i.e. meipso)* may represent the official formula *Data per manum nostram*.

Patents<sup>1</sup>, whilst the injunction is by no means confined to the formula *Et ideo vobis mandamus*. But the most striking variation is seen in the case of the clause announcing sealing. Here in place of the familiar formula *In cujus rei testimonium has litteras nostras fieri fecimus patentes* we find that the phrase *Et in hujus rei* (evidently borrowed from private diplomata) was in use till the eighth year of Henry III, if not later. Not only this, but the more figurative expression *vobis inde mittimus* precedes the use of an actual announcement of sealing contained in the words *fieri fecimus patentes*<sup>2</sup> by at least as long an interval, whilst a similar formula (*ei fecimus patentes*) is found in still later times.

Again, the actual composition of the earliest Chancery enrolments of the reign of John confirms this view of the gradual evolution of the distinctive royal instruments of a slightly later period. It is well known that no Patent or Close Rolls exist previous to the third and sixth years, respectively, of this reign, the conventional writ in a slightly modified form doing duty for both Letters Patent and Letters Close, side by side with formal charters<sup>3</sup>. When the Patent Rolls suddenly begin to be made up in the third year of the reign, Letters Close are found mixed with them for the next two years. In the case of both classes of instruments the typical formulas are elaborated, as will be shown presently, by a very slow process of diplomatic construction. The earliest stereotyped form is naturally that in most frequent use, namely Letters of Protection, which, as early as the first year of the 13th century, are distinguished as *Litterae Simples* as opposed to those furnished with the clauses *Volumus* (giving immunity from certain action at law), *Nolumus*, and other forms<sup>4</sup>. Mention has already been made of the use and possible abuse of the conventional titles which have been given to such familiar forms of Letters Patent as Commissions, Presentations, Protections, Safe-conducts, Pardons, Credentials and many others<sup>5</sup>. Herein the Patent shows its affinity to the ancient royal writ, and this devolution is indicated by the general terms "Precept" and "Mandate"<sup>6</sup> applied

<sup>1</sup> An interesting form is that which mentions the persons "*ad instanciam*," of whom the grant was procured. The occurrence of personal Attestations in the earliest Patents may or may not be connected with their procurement.

<sup>2</sup> The words *et sigillatas* were sometimes added but this condition is implied.

<sup>3</sup> The fiscal side of the administration during this period is represented by the *Liberate Rolls* (ed. Hardy).

<sup>4</sup> *Formula Book*, Nos. 65, 66. The later Departmental Passes (for shipping) are derived directly from these instruments; but they were specially enrolled in the reign of George II.

<sup>5</sup> Above, p. 234.

<sup>6</sup> From the narrative or descriptive forms used in enrolments, *i.e.* *Præceptum est* or *Mandatum est*.

to Letters Patent equally with Letters Close and Original and Judicial or Departmental Writs.

Later still a fresh batch of diplomatic titles has been added to describe new subjects of diplomatic concern<sup>1</sup>, until something like uniformity of official terminology is established in the Docquets of the 17th century.

Although the above distinctive formulas occur in the large majority of Letters Patent, both of a missive and diplomatic character, it would be possible to point to instances in which the absence of the Notification and the wording of the Exposition produce a close resemblance to Letters Close. In these cases, however, the real character of the instrument is shown by the presence of the clause announcing sealing. Perhaps the widest departure from the general form of the normal patent writ is found in the case of diplomatic instruments connected with the execution of treaties, such as "Letters of Credence" and especially "Procurations" or "Full Powers" for concluding peace or alliances<sup>2</sup>.

Letters Patent in French, which present us with versions of the usual Latin formulas, may be occasionally met with towards the end of the 13th century. Possibly a further development of this conversion was avoided by the free use of the bilingual and eventually trilingual Privy Seal and Sign Manual Warrant.

The Charter and Confirmation and their substitutes in the shape of Letters Patent, as became select and authoritative instruments, continued, until a comparatively late date, to be composed in Latin, whilst English was frequently employed in preference to French for such versions of public and private diplomata as occur before the 16th century<sup>3</sup>.

In one aspect Letters Close may be regarded as types of the conventional writ adapted for some special purpose by means of a distinctive formula. In another aspect they do not seem to differ essentially from the conventional form, except that they are dignified by a special official enrolment<sup>4</sup>. The chief characteristic of Letters

<sup>1</sup> Cf. Campbell, *Materials for a history of the reign of Henry VII* (Rolls), *passim*. For the several types of Letters Patent in an earlier period see *Rot. Litt. Pat.* Preface, and *Formula Book*, Nos. 50-70.

<sup>2</sup> In the case of treaty papers the year of Our Lord is often substituted for the regnal year.

<sup>3</sup> Instances of the latter may be found in various cartularies and the official "Transcripts of Deeds various." They are quite unintelligent from a diplomatic point of view. A very early English version of Letters Patent is seen in the famous trilingual Proclamation of 1258 (*Pal. Soc.* N.S., Part 3, No. 73). Generally speaking French is superseded by English and Latin from the reign of Edward IV.

<sup>4</sup> The distinction obviously implied by the name cannot be easily recognized owing to



Close would seem to be that as they rarely, and then only indirectly, take the place of royal charters, the ceremonious formulas of Letters Patent are here dispensed with, and this is in keeping with their confidential nature<sup>1</sup>. At the same time they are distinguished from the old administrative writ by certain peculiarities of construction, which may be enumerated as follows. The Notification is frequently wanting and the Exposition is usually more developed than in the conventional writ<sup>2</sup>. The extent of this development depends on the nature of the Dispositive clause which gives to the writ its varying character. The nearest approach to the form of a charter is seen in the case of grants of land or offices "during pleasure" or "for sustenance." Here, as well as in grants of Pardon and Protection, we see some resemblance to Letters Patent, whilst a similar resemblance to the construction of the ancient writ is seen in the case of instruments intended to give effect to previous grants. In the above and other instances the Dispositive order, or Injunction, is usually introduced by a formal Notification and Exposition. The most frequent use of Letters Close is, however, for purely administrative purposes, and in this aspect they may be considered as specialized writs in the nature of precepts or mandates, differing only from Letters Patent in their application to matters affecting the efficient discharge of former instructions<sup>3</sup> or the personal interests of the crown<sup>4</sup>. These forms can be easily distinguished by the omission of a Notification, an Exposition, and the explanatory words *et ideo*, their place being taken by an abrupt Injunction. In every case, however, there is a formal Attestation by the King himself, though this is not preceded, as in Letters Patent, by a clause announcing

the loss of original specimens. Whether these Letters were in all cases sealed on the back, with the Great Seal as a *cachet*, or whether the seal was also affixed by a tag and the Letter closed by a band, cannot here be decided.

<sup>1</sup> As in the case of Letters Patent many of these writs in the earlier period were executed under the Privy Seal.

<sup>2</sup> This is seen in the class of writs in which the Notification is replaced by a narrative or hypothetical exposition such as *Cum*, *Quia*, &c., or *Monstravit*, &c.

<sup>3</sup> As an instance in point, we find the following issue of Letters Patent and Executive Writs on one day in connexion with the same business:

- (a) 20 April. 54 Hen. III Letters Patent appointing new collectors of the 20th in Essex.
- (b) Same date. Same notifying same to the late collector.
- (c) Writ admonishing the new collectors to proceed.
- (d) Writ of Assistance to the Sheriff.

<sup>4</sup> e.g. Wardrobe, Household, &c. For the special uses of these instruments in legislative, fiscal and military business see below p. 256. Feudal business was recorded here in later times by writs for Livery of Seisin, &c.

Execution. There are also, as in the case of the latter instruments, official memoranda to indicate the agency by which the writ has been procured.

The systematic alternation of formulas, which is a characteristic feature of the whole class of Letters Close, will perhaps be understood from the following table. It will be noticed that the variation in the Injunctive clause is really governed by the construction of the antecedent Exposition. Thus a Notification<sup>1</sup> followed by the usual Movent clause or a simple narration<sup>2</sup> requires the form *Et ideo*, &c. to complete the sense. On the other hand, indirect<sup>3</sup> or hypothetical<sup>4</sup> clauses are followed by an abrupt Injunction. Finally, in instruments which lack both Notification and Exposition<sup>5</sup>, the Salutation is immediately followed by a precept which partially recalls the Anglo-Norman writ.

Superscription	Address & Salutation	Notification	Exposition	Disposition (Injunction)	Attestation	Date
1. A. Rex &c.	B. &c. salutem	Sciatis quod &c.	concessimus &c.	Et ideo tibi præcipimus &c.	Teste me ipso	Apud X &c.
2.    "	"	wanting	Monstravit &c. nobis	"	"	"
3.    "	"	wanting	Cum &c.	tibi præcipimus	"	"
4.    "	"	wanting	Si &c.	tunc summone &c.	"	"
5.    "	"	wanting	wanting	Tibi præcipimus quod &c. or Liberate &c.	"	"

It is well known that the two great series of Patent and Close Rolls have continued down to modern times, but marked differences exist between the earlier and later forms of these instruments. In the first place it will be obvious that the missive forms both of Letters Patent and Letters Close were superseded, first by the missive instruments under the Smaller Seals during the 15th century and from the Tudor period onwards by the cursive "State Papers" in the vernacular. For purely formal or ceremonial purposes a certain number of the mediæval forms continued to be used, particularly those connected with ecclesiastical patronage and foreign diplomacy. In

<sup>1</sup> See Form No. 1 below.

<sup>2</sup> See Form No. 2 below.

<sup>3</sup> No. 3 below.

<sup>4</sup> No. 4 below.

<sup>5</sup> No. 5 below.

respect of domestic administration we find that the use of certain instruments, particularly Commissions and Proclamations, is largely governed by political considerations. Again, owing to inevitable constitutional changes in the character of the sovereignty<sup>1</sup>, the older grants of land are replaced by Crown Leases and Pensions. Economic progress is signalized by the recognition of Inventions and by facilities for Denization. Other instruments such as Creations, Offices, Licenses, Charters of incorporation and Pardons are preserved in a very similar form.

Although in respect of their general diplomatic composition the "Letters" issued under the Great Seal may be regarded as either Patent or Close, there are still several well-known series which would be more properly described as special letters and departmental writs<sup>2</sup>. Of these the fiscal writs of *Liberate*, *Computate*, *Allocate*, *Perdono*, *Solvatis* and the departmental *Contrabrevia*, which, frequently found on the Close Roll itself, are familiar examples<sup>3</sup>. To these may be added certain technical instruments connected with ecclesiastical matters and military service, together with the extensive group of Parliamentary writs<sup>4</sup>. Finally, amongst the original and judicial writs connected with the administration of justice there are various familiar types which have been separately preserved or enrolled<sup>5</sup>. Many of the above have well-marked individual characteristics, but it has only been possible to refer to them in the limited space at our disposal. Moreover, many of these forms have been carefully described in connexion with the history of English Law, and specimens of the same have been printed in official publications and legal formula books<sup>6</sup>.

We have seen that since the close of the 15th century, there has been a growing tendency in the direction of the disuse of the Great

<sup>1</sup> 1 Anne c. 1.

<sup>2</sup> Under the head of departmental writs of an administrative character may be included a vast collection of executive instruments, some of which, like the "original" and "judicial" writs used in legal procedure, required a return to be made by the persons to whom they were addressed. For this reason perhaps such writs, though composed in the style of Letters Close, are not regularly entered in the Chancery Rolls. For besides the originals (and returns) preserved in the Chancery Files, a large proportion were entered in the Exchequer Rolls. (The whole subject, however, like the documents themselves, is one that deserves further attention. Cf. above, pp. 249, 250.)

<sup>3</sup> Cf. C. Bémont in *Rôles Gascons*, Suppl., T. 1. p. xvii; Madox, *Exchequer*, Vol. 1. p. 390; *Dialogus*, 1. vi; *Pipe Roll Soc.* Vol. III. Intro. and *Formula Book*, Nos. 77-86.

<sup>4</sup> e.g. Scutage Rolls, &c. Cf. Palgrave, *Parliamentary Writs* for these, and *Formula Book*, Nos. 77-86.

<sup>5</sup> e.g. Writs of Redisseisin.

<sup>6</sup> See Gross, *Sources and Literature*, s.v.

Seal and the substitution of writs or warrants under the Smaller Seals, and the Sign Manual. Not only were these employed in a missive form, but they also served, on occasion, as warrants which dispensed with the issue or enrolment of Letters Patent; just as in turn Letters Close, the typical missives of the 13th and 14th centuries, were gradually disused with the advent of the modern State Paper. This being so, the characteristic feature of these enrolments disappears, and the later Rolls are utilized for the registration of private and semi-official Deeds<sup>1</sup>. In this later period also new series of enrolments were founded, which served still further to deplete the ancient classes of Letters Patent and Close<sup>2</sup>.

The diplomatic forms alluded to above are those usually associated with the practice of the royal Chancery in respect of writs under the Great Seal. Others, however, are found amongst the Records though only the briefest mention of them can be made. Of these a large class of Parliamentary instruments will be found to be either irregular in point of construction or consisting of Chancery writs in a common form<sup>3</sup>. The later proceedings of Parliament, like those of the King's Council, are of the nature of judicial or departmental Records and both are still preserved in external custody. Others which are connected with the procedure of the Ecclesiastical and Admiralty Courts are of considerable interest for the general study of diplomatic and refer particularly to certain Chancery enrolments<sup>4</sup>. At the same time these instruments are composed according to a notarial system which has always been regarded as alien to the native legal system. Moreover, an exact description of their diplomatic construction would involve some explanation of the procedure of the Continental Chanceries<sup>5</sup>. Finally, it must be remembered that the official

<sup>1</sup> *e.g.* Recognizances, Conveyances of several kinds, Trusts and Awards, Memorials and Specifications.

<sup>2</sup> *e.g.* Dispensation, Surrender and Bishop's Patent Rolls in the 17th century.

<sup>3</sup> These are printed exhaustively in Palgrave's *Parliamentary Writs*. Their sequence is indicated in the *Formula Book*, p. 82, from the proceedings connected with the Parliament of York in 1321. Here notarial forms, such as proxies and certificates, will be found to alternate with royal writs at certain stages of the proceedings. Cf. also Stubbs, *Select Charters*, Part VII.

<sup>4</sup> *e.g.* Letters Patent connected with episcopal elections. It is well known that a sequence of conventional instruments may be found in connexion with ecclesiastical elections, a notarial document alternating with a diplomatic writ as follows: (1) Petition for license to elect, (2) Royal License (*Congé d'élire*), (3) Notification of election, (4) Royal Assent, (5) Canonical confirmation of election, (6) Restitution of temporalities. For specimens, see *Formula Book*, Nos. 88—93.

<sup>5</sup> The admirable *Manuel de Diplomatique* of M. Giry will serve for every purpose of comparison between the Continental and English systems. Cf. also Lemoine, *Diplomatique pratique* (1765).



collections of ecclesiastical Records<sup>1</sup> are not in the custody of the crown, while the Admiralty Records were quite recently regarded as purely departmental Archives<sup>2</sup>.

(d) *Instruments under the Smaller Seals (Missives).*

The partial disuse of the Great Seal of majesty marks the beginning of the last stage in the evolution of the charter with its subsidiary writs. Whether this momentous change is connected with the growth of the personal power of the crown or with the development of the administrative system is a question with which we are not here directly concerned, any more than with certain interesting speculations as to the antiquity of the private seal itself. The earliest existing notices, however, of the official use of a secondary royal seal date only from the reign of King John, and the practice in point cannot be regarded as fully established before the reign of Edward I.

The Privy Seal is probably mentioned as such for the first time in the reign of John<sup>3</sup>. Whether the "Parvum Sigillum" used on

<sup>1</sup> *i.e.* The Episcopal Registers (cf. the Prospectus and Publications of the Canterbury and York Society). For the Diplomatic of this subject see Lyndwode's *Provinciale* (1679), Ayliffe's *Parergon* (1734), Oughton's *Forms of Ecclesiastical Law* (1831), the Reports on Cathedral Archives prepared for the Historical Manuscripts Commission (Various Collections) by Mr R. L. Poole. For contemporary notices of the formulas of ecclesiastical confirmations cf. *Wykeham's Register* (Hants. Record Society), I. 11, 70, 149, 185, 229, &c.; Matt. Paris (Rolls), III. 306 sq.; *Registrum Palatinum Dunelmense* (Rolls), I. 392; *Cartularium Ramesiense* (Rolls), I. 28—40, amongst the numerous sources of information for this extraneous subject.

<sup>2</sup> For the forms of Admiralty Records, 14th—16th century, see R. G. Marsden, *Select Pleas in the Admiralty Court* (Selden Soc.). That there was a considerable official employment of public notaries in the 15th century may be inferred from documents printed in the *Foedera* and specific cases like that of Hugo Helwys in the Issue Roll, Mich. 11 Henry IV.

Again, it would doubtless be possible, by means of a careful selection from the texts of the mediaeval *Foedera* and from unpublished documents, to prepare a fairly complete list of more or less conventional forms illustrating the overtures connected with a diplomatic mission, the Credentials, Commendation and Safe-conduct of the envoys, and the Instructions, Mandate, or Powers committed to their charge, with the formal Proxies and Declarations relating to the same; the execution of the treaty protocols and separate provisions or articles, according as the negotiations in progress relate to an Arbitration, a Treaty of marriage or alliance, a Pacification, a Convention, or a Truce. Finally, the securities or consideration given in the shape of hostages or money, the ceremonial of leave-taking and the due ratification of the protocols by the high contracting parties. Such an eclectic sequence could, however, be of no real value as indicating the normal procedure, which contrasts sharply in point of uniformity with the diplomatic practice of later times as represented by the conventional sequence of instruments during the 17th and 18th centuries that is referred to above (p. 246) and printed in the *Formula Book* (Nos. 183—194). Reference may, however, be made for the elucidation of the later mediaeval procedure to the following works: Maulde la Clavière, *La Diplomatie au temps de Machiavel*, and Vl. E. Hrabér, *De Legatis et Legationibus Tractatus varii*.

<sup>3</sup> *Privato Sigillo nostro signatas* (*Rot. Litt. Pat.* p. 183 a).

certain occasions in the reign of John was the equivalent of the later Privy Seal or was merely the king's Signet or personal seal<sup>1</sup> is at least doubtful. In any case the verification of royal instruments by this device was regarded as an expedient only justified by an emergency<sup>2</sup>. The same view may be taken of the occasional use of the personal seals of the Queen, the Chancellor or other royal deputies<sup>3</sup>, and this constitutional view was even extended to the prolonged abeyance of the Great Seal during a minority<sup>4</sup>. It is also clear that the validity of such instruments was open to question<sup>5</sup>, and an undertaking was often given for their ratification in due course under the Great Seal<sup>6</sup>. It is possible that this provisional use of the Privy Seal facilitated the adoption of the later practice of procuring Letters or Bills for the due issue of more formal instruments<sup>7</sup>. Great care must, however, be invariably exercised in order to avoid confusion between the formal writs of Privy Seal for the mere issue of the Great Seal and the missive writ with which we are at present concerned. The same distinction must also be observed in the case of Signet Letters and Warrants employed as missives, and Bills, Letters and Warrants issued under the Signet or other Small Seal<sup>8</sup> as authorities for the use of the Privy Seal or the Great Seal. The general resemblance of these two types is a very close one, and in both cases the Sign Manual was occasionally employed, at a later date, as a supplementary method of execution or expedition. But although these early variants must be clearly recognized, and although the substitution of the Smaller Seals for the Great Seal was a well-known abuse of later times, it is important to note that the chief, if not the true function of the mediaeval Smaller Seals, and especially of the later Sign Manual, was to authorize the issue of the Great Seal.

<sup>1</sup> This term does not seem to have been used in an invidious sense as in later times.

<sup>2</sup> *Quia Magnum Sigillum nostrum nobiscum non habuimus* (cf. *Rot. Litt. Claus.* p. 114 b and *Rot. Litt. Pat.* p. 138).

<sup>3</sup> Just as many subsidiary instruments (including even Tallies) were made in the forms of the official *scriptorium* and employed by local officers, so precepts were issued by the sheriffs for certain purposes, and acknowledgments and other certificates were sealed by the Customers at the out-ports as Letters Patent under the "Coket" Seal (cf. *Formula Book*, No. 134). Similarly, we find that in much later times warrants were issued by an authority delegated to Secretaries of State and local and colonial officers. Debentures on the Wardrobe were not issued under the Privy Seal but under the seals of the clerks.

<sup>4</sup> *Quoniam sigillum nondum habuimus*.

<sup>5</sup> Numerous ordinances and cases will be found in the Statutes and Rolls of Parliament.

<sup>6</sup> Cf. *Formula Book*, No. 44. This may or may not explain the necessity for the confirmation of existing charters in the 11th year of Henry III. Cf. above, p. 241.

<sup>7</sup> Cf. below, p. 264.

<sup>8</sup> e.g. The Griffin used by Edward III, and the Eagle by Henry V and Henry VI.

Of the above missive writs or letters, the Privy Seal is, as we have seen, the earliest. From first to last this maintained its position as the recognized medium for conveying the royal commands, especially in cases where the authority of the Great Seal might be dispensed with on the plea of urgency<sup>1</sup>. Again, it will be noted that the use of the Privy Seal is closely associated with the development of a new administrative department, the Wardrobe, whilst the independent authority of the Smaller Seals in general is found to coincide with the organization of the Chancery as a Court of Law. From the first, too, we find the administrative use of the Privy Seal chiefly associated with the fiscal business<sup>2</sup>, which had been from a very early period transacted partly in the Exchequer and partly in the Chamber (*Camera*) and Wardrobe<sup>3</sup>. Moreover, the disuse of the Great Seal for purely official purposes must have presented obvious advantages. The time was soon to come when even the use of the Privy Seal itself was found too cumbrous for many departmental transactions; but this further development was also due to the increasing importance and dignity of the office of the Keeper of the Privy Seal, and thus we reach the final evolution of the diploma in the shape of the Signet Letter and Sign Manual Warrant which could be expedited without needless formalities or delays which might prove dangerous.

The characteristic formulas of missives under the Smaller Seals have a general resemblance to those of the executive writ (Great Seal)<sup>4</sup>; but in connexion with the Writs of Privy Seal it should be noted that although the existence of a Latin form as early as the 13th century is well established, the characteristic language of these instruments was French<sup>5</sup>. The Latin writs preserved side by side with these in the Exchequer files are mostly instruments under the Great Seal issued for the information or instruction of the Barons.

<sup>1</sup> *e.g.* Commissions of array, Benevolences, &c. in which the public safety is vehemently alleged from the reign of Edward III to that of Charles I (Exch. T. of R. Privy Seals for Loans).

<sup>2</sup> These are classified as Exchequer of Receipt, "Warrants for Issues." A considerable number of missive writs are filed here, and still more are found on the Memoranda Rolls of the Exchequer. Others will be found amongst the "Exchequer Proceedings."

<sup>3</sup> Cf. the several charters granted in 1251 to Peter de Rivallis, including in almost identical terms the offices of Keeper of the Small Seal, holder of the Third Roll (by deputy) at the Exchequer, and Keeper of the Wardrobe, the Chamber and the Treasury of the Household (Rot. Chart, 16 Henry III, mm. 7 and 9). The administrative importance of the Wardrobe will explain the rapid growth of this clerical department.

<sup>4</sup> See *Formula Book*, Nos. 94—104. An interesting MS. precedent book is preserved in the Cambridge University Library (Dd. III. 53 a).

<sup>5</sup> Exchequer of Receipt, Warrants for Issues and T. R. Warrants for Issues (Series I). Cf. Madox, *Hist. of Exchequer*, i. 382 and 387.

The same remark applies to the writs issued under the Exchequer or other departmental seals on the authority of Privy Seals. Letters Patent issued under the Privy Seal instead of the Great Seal are of course exceptional, although we have evidence of serious encroachments on the functions of the Chancery before the reign of Edward II<sup>1</sup>.

In the French forms of Privy Seal writs we have evidently a mere version of the Latin conventional writ, and the same remark applies to the epistolary forms sometimes employed.

The Seal was either endorsed, or affixed *en placard* or else suspended after the manner of the Great Seal<sup>2</sup>.

It may be suggested, however, that the endorsement in this case differs from the perfunctory attachment of the seal in later departmental warrants for the issue of the Great Seal. If we may regard the Privy and Secret Seals as equivalent devices during the earlier period the seal was probably used to secure the folded letter in connexion with a band which tapered from one end. Certainly there is little difference in the size of these two seals. The Privy Seal itself appears to have been of inconsiderable dimensions (somewhat larger than a shilling) during the reigns of Henry III, Edward I, Edward II, and the early part of that of Edward III, when it reaches the size of a crown piece. The use of this larger seal *en placard* in missive letters is very noticeable.

The Signet or Privy Signet Seal, which appears in the reign of Edward III as rather larger than a sixpenny piece, was lozenge-shaped, in contrast to the circular Privy Seal, like the *cachet* of the 17th and 18th centuries. Like the Privy Seal it was invariably of red wax and its "scar" is easily recognized on the dorse of royal letters by the cross-shaped adhesion spread outside the matrix. We have unfortunately little information about the establishment of the Signet or its custody prior to the 16th century<sup>3</sup>.

Signet Letters, though of later date, differ only from the earlier Privy Seal Letters in respect of their verification by means of the Signet. The characteristic form of both is epistolary, and is rarely that of a mere precept<sup>4</sup>, like the Signet Bill or Warrant for Issues<sup>5</sup>.

<sup>1</sup> Cf. *Articuli super Cartas*, c. 6. For the extensive use of these writs in the Edwardian period cf. Madox, pp. 358-9 and *passim*.

<sup>2</sup> Above, p. 253, n. 4. Letters of Privy Seal, as distinguished from Writs, are found under the pendent Seal after 1660 (Hardy, *Rot. de Liberate*, &c. p. xiii, n.).

<sup>3</sup> For the form of the later seal see Audit Office Declared Accounts, "Engravers of Seals," and Wyon, *Great Seals*, Appendix.

<sup>4</sup> *Vobis mandamus*, &c.

<sup>5</sup> *Formula Book*, Nos. 105 sq.



From the middle of the 14th century the heading *Per regem* occurs with or without the Sign Manual; an authentication which has survived in the modern Proclamation. The Salutation and Address are epistolary in character and there is frequently a Valediction. A noticeable Final clause is found somewhat later in the shape of an authorization which became the typical feature of the Royal Warrant<sup>1</sup>. Perhaps the chief interest of the Signet Letter is found in the fact that it served as a model for the later departmental Letter (which it also resembles as a paper document), though as a mere survival it had an independent existence till the last century.

The Dormant writ or warrant of Privy Seal extensively used in the 16th and 17th centuries bears a close resemblance to the ancient writ of *Liberate*. It is distinguished by the time limit expressed in the Injunction<sup>2</sup>.

The Sign Manual Warrant, which dates from the reign of Richard II, differs but little from the Signet Bill except that it is not necessarily verified by a seal, and in a later period was countersigned<sup>3</sup>. The English form "We will and command," is derived from the stereotyped Latin formula *Nos volentes—vobis mandamus*, whilst, as we have seen, the clause of warranty is derived from more ancient instruments.

The Proclamation closely follows the formulas of the Privy Seal, Signet Letter and Warrant with numerous variations. We can even recognize in certain specimens the older formulas of Letters Patent. It has, however, as its distinctive characteristics the heading "A Proclamation" and the curious final *Apprecatio* "God save the King." Alone of the recognized types of royal diplomata the Proclamation appears only in an English form, for the Letters Patent to which this title has frequently been given have no diplomatic connexion with this instrument in its technical sense<sup>4</sup>. In some respects, however, the Proclamation would seem to belong to the class of later departmental instruments under the Smaller Seals and Sign Manual which will be described in another section. As these, however, are merely variants of earlier diplomatic forms, the Proclamation as a distinct

<sup>1</sup> *Et hae litterae nostrae vobis erunt super hoc sufficiens warrantum.*

<sup>2</sup> e.g. For payment of "liveries" at certain annual dates, "and so from year to year" during life or the royal pleasure.

<sup>3</sup> *Formula Book*, No. 100.

<sup>4</sup> It is curious that one of the earliest of these, the so-called Proclamation of the king's adherence to the Provisions of Oxford in 1258, was issued in English. It was composed in diplomatic style. Similar "Proclamations" are found on the Patent Rolls during the 18th century. Mr W. H. Stevenson, however, regards this Proclamation as a Letter Close (*E. H. R.* xxi. 506). It is cited by Bishop Stubbs as a trilingual document (*S. C.* p. 378), but only the English and French versions can be identified. For references to the texts see *Formula Book*, Nos. 70 a and 70 b.

species in itself should perhaps be mentioned amongst the former in spite of its modern associations<sup>1</sup>.

(e) *Warrants for Issues*<sup>2</sup>.

Although these instruments are usually termed "Warrants" they comprise, as we have seen, almost the same types as have been described above, namely Writs, Letters and Bills of Privy Seal, together with Letters and Bills under the Signet and Sign Manual Warrants<sup>3</sup>. These, however, are not used as royal missives for general administrative purposes, but presumably subserve a single purpose, the issue of instruments under the Great Seal<sup>4</sup>. This distinctive use can be easily gathered from the Injunctive clause which contains the direction referred to. Moreover, most of these Warrants are addressed directly or indirectly to the Chancellor, whilst there is also a difference in the titles and forms of the instruments themselves. A very large proportion consists of Bills under the Privy Seal omitting the usual diplomatic openings, which are replaced by the heading *Per regem*, &c. followed by the special Injunction. The antiquity of this departmental procedure is somewhat uncertain, but it can be traced back to the reign of Henry III, and possibly even earlier, in connexion with the principle that for certain purposes the assistance of the Great Seal might be invoked by a petition to the sovereign or procured by an initial fee to the keeper of the Smaller Seal<sup>5</sup>. Evidently, however, the official practice continued to be somewhat vague and arbitrary down

<sup>1</sup> Matters of State such as the change of the royal style under Henry VIII might be dealt with in this way and enrolled amongst the legal Records (cf. above, p. 233).

<sup>2</sup> See *Deputy Keeper's 8th Report*, Appx. II. p. 189. An excellent account of the Procedure is given in Scargill-Bird's *Guide* (2nd ed.) s.v. Privy Seals.

<sup>3</sup> *Formula Book*, Nos. 105 sq. The Bill is a form peculiar to the Warrant as distinguished from the Missive.

<sup>4</sup> Not infrequently the Chancellor is required to prepare a suitable despatch in connexion with political or judicial business. We also notice in the earlier period, particularly in the reign of Edward I, the occasional use of Privy Seal Letters to procure redress without necessarily implying the issue of an instrument under the Great Seal for this purpose. In fact, but for the circumstance that these letters were not returnable like the Original Writs *de cursu*, they would scarcely be distinguishable from those preserved in the Chancery files. In one case (Warrants for Issue, Series I, 1682, 17 Jan. 1283) the officials are reminded of the king's desire to encourage poor and distressed suitors to approach him. Indeed, we are almost tempted to conjecture that at this stage of the development of the equitable jurisdiction of the Chancery, the business of the court and of the seal went hand in hand. Somewhat later the usual process of royal intervention in the course of justice was accomplished by a Signet Warrant to procure a Privy Seal addressed to the justices which would be followed by a judicial writ of *Supersedeas*. In such cases the intervention of the seal was procured, we may suppose, by personal petition as in the case of Letters under the Great Seal.

<sup>5</sup> Cf. *Rot. Parl.* III. 388 b, 433 b; IV. 496 b.

to the reign of Henry VIII<sup>1</sup>. But although from the reign of Edward III, if not still earlier, a recognized procedure existed<sup>2</sup>, this was frequently ignored in practice<sup>3</sup>. The good offices necessary to procure the issue of Letters Patent or Protections were sometimes performed by household officers, whose interest might easily be opposed to that of the keepers of the Seals<sup>4</sup>. At length it became necessary for the crown to intervene by obtaining an Act of Parliament to establish the jurisdiction of these departments on a firm footing<sup>5</sup>.

Previous to this declaratory Act, the procedure at different periods during the 14th and 15th centuries seems to have been as follows. In response to a petition presented to the crown a Letter under the Signet was addressed to the Keeper of the Privy Seal requiring him to prepare a Warrant under that Seal as an authority for the Chancellor to issue Letters under the Great Seal. This was apparently the normal practice and one which differed little from that of later times.

<sup>1</sup> From the reign of Edward I a considerable number of original Warrants exist under the Privy Seal, as authorities for the issue of the Great Seal. These are written in a purely epistolary style, and we may perhaps suspect that such informal letters, or rather Bills, were the official predecessors of the great series of Signet Warrants which become of paramount importance from the reign of Richard II. The early letters referred to are in the style of the departmental letters of the period preserved in the Ancient Correspondence of the Chancery, commencing with an Address and Salutation and containing a mandate (in rogatory terms) for the good offices of the Chancellor in the matter set forth or inclosed.

<sup>2</sup> Chancery Warrants, &c. File 1675 sq.

<sup>3</sup> Cf. above, p. 244 n. 2. The authorities cited here seem to show that the issue of certain instruments under the Great Seal was to some extent a matter of course as early as the beginning of the 14th century. At the same time we may reasonably suppose that the sovereign had the chief voice in the matter, and in this connexion the writs of revocation of Letters Patent occasionally found are significant. Cf. Pat. 34 Edward III, Pt. 2, m. 6, assigning as a cause for revocation that the extent of the grant *non fuit intentionis nostrae*.

<sup>4</sup> Cf. *Rot. Parl.* III. 268, from which we learn that in 1372 the Signet was usually procured by the Chamberlain or Sub-Chamberlains of the Household. It was considered desirable that, in the case of venal instruments such as Pardons, the official who procured the Signet Bill should endorse the draft prepared for the Privy Seal to ensure his responsibility for the concession desired. Originally it would seem that the Chancellor himself had procured the warrant after "speaking with" the King on the subject, but this practice must have been replaced by the rise of the new seal-bearing officers. Occasionally we have a glimpse of the informal procedure which might be used in the case of such petitions for the issue of Letters Patent. To original Letters Patent granted to a royal debtor for pardon of arrears at the intercession of a certain courtier there are attached a schedule of debts and a contemporary note of the petition, together with several other petitions in other cases, reminding us of the memoranda sometimes found amongst the later State Papers relating to suits to be advanced by the Secretary of State with the King himself or before the Council. Cf. O. L. P. (Exchequer), Bdle 1. and Chapter House Books, No. 139 (Papers of Thos. Cromwell).

<sup>5</sup> 27 Henry VIII, c. 11.

That it was extensively used, is proved by the preservation of a large series of these Signet Letters<sup>1</sup>.

But besides this formal procedure, the warrant in question might reach the Chancery direct as a Writ or Letter under the Privy or "Secret" Seal, or as a Privy Seal or Signet Bill, or as a Sign Manual Warrant<sup>2</sup>. Some of these instruments again might be used as a covering writ or letter from the King enclosing the petition for the Chancellor's information, or the royal *Fiat* might be inscribed upon the Petition itself.

In the Privy Seal writs, however, as opposed to Bills, a process of transition can be observed during the 15th century. The brief mandate with its annexed schedule are frequently, from the reign of Henry VI, incorporated in a single instrument which contains full instructions for the purpose in view. Finally, from a certain period in this reign the writ commences with a mandate to prepare an instrument *in forma sequenti* followed by a draft of the same complete (except as to the protocols) and concluding abruptly with the usual attestation, much after the manner of an *Inspeximus*. Similarly, the petitioner might submit a draft of the instrument desired, possibly in his own handwriting, and this was either appended to a petition, or was presented in the form of a draft instrument to which a petition, or an official docquet giving its purport, was prefixed as a heading. Such a draft as this, when approved by the superscription of the Sign Manual, was "expedited" in due course. The effect of the Sign Manual as a superscription to a Signet Warrant was apparently intended to procure its immediate execution by the Chancellor. These drafts omit the official details of the Initial and Final Protocols which, as in the case of the later King's Bill, were inserted at a further stage of the proceedings<sup>3</sup>. After the reign of Henry VI the date of the acceptance of the petition and adoption of the draft submitted is often indicated by the addition of an official Dating clause; but besides this an official memorandum mentions the date and place of delivery of the authorized draft to the Chancellor for execution<sup>4</sup>.

<sup>1</sup> In the case of the great Exchequer Series (T. of R.), however, these Signets were intended to procure the Privy Seal alone.

<sup>2</sup> This is usually indicated by the departmental minute on the Chancery enrolment, *Per ipsum regem*.

<sup>3</sup> The above change of practice in the reign of Henry VI was not uniformly observed down to the close of the 15th century. It is probable that the position of the applicant was considered, and there is a common variant in the minute for issuing the Great Seal authorizing the remission of fees *Pro Deo* or *Quia pauper*.

<sup>4</sup> The origin of this practice which is commemorated in the well-known departmental minute, *auctoritate Parliamenti, &c.* may probably be found in the Statute 18 Henry VI. c. 1 (cf. *Rot. Parl.* v. 23 a).



The formulas of the Warrant under the Privy Seal or Signet, whether in Latin or French<sup>1</sup>, exhibit numerous variations. In the earliest period, as we have seen, such letters are informally addressed to the keepers or clerks of the Chancery and bear no announcement of sealing. In some instances, especially in Passes, provisos may be added in a Final clause<sup>2</sup>.

In its earliest and simplest form the Privy Seal Warrant for the issue of the Great Seal, whether procured by a Signet Letter or not, appears as an instruction to the Chancellor for the preparation of an instrument to meet the requirements of a Petition which is stated to be annexed<sup>3</sup>. The motive of this instruction is usually stated in the Exposition of the writ<sup>4</sup>. The Injunction which follows this Exposition is generally found as a simple mandate<sup>5</sup>, but from the reign of Richard II the later stereotyped formula (*Nos*) *volentes—vobis mandamus* begins to appear. In the case of formal instruments, such as Protections, it was evidently unnecessary to forward detailed instructions and the Salutation is followed by a direct Injunction<sup>6</sup>. In other cases the object of the warrant was merely to authorize the seal to be affixed<sup>7</sup> to instruments already drawn, and these are to be returned by the bearer when sealed.

In the composition of these instruments a uniform and technical arrangement is followed. Thus a warrant which refers to a grant to be made by royal charter<sup>8</sup>, enjoins the preparation of a corresponding instrument<sup>9</sup> with suitable variants in the case of Letters of Protection or Attorney, &c.

During the period in which the greater number of these Warrants are composed in French, we are presented with an idiomatic and not ungraceful version of the conventional Latin writ. In the 15th century,

<sup>1</sup> Roughly speaking, these instruments are bilingual (Latin and French) from the reign of Edward II to that of Henry V, and trilingual in the reigns of Henry V and VI. Under Edward IV French is rapidly superseded by Latin and English, and the latter has achieved a virtual supremacy from the reign of Henry VII. In the earliest period, however, the Privy Seal is associated with a Latin script, whilst French is evidently predominant in the middle of the 14th century.

<sup>2</sup> e.g. to guard against a breach of the bullion laws. In the case of Protections a mere direction is given for the clause *Volumus*, &c. (as in the procedure under Letters Patent).

<sup>3</sup> *In cedula presentibus interclusas.*

<sup>4</sup> *Quia concessimus*, &c. *suscepimus in protectionem*, &c. *datum est nobis intelligi*, &c.

<sup>5</sup> *Vobis mandamus.* In the case of instructions for special occasions we usually find *scribatis.*

<sup>6</sup> *Mandatis.*

<sup>7</sup> *Sigillari faciatis.*

<sup>8</sup> *Cum de gratia nostra*, &c. *concessimus*, &c.

<sup>9</sup> *Cartam, sub magno sigillo nostro, de concessione nostra hujusmodi habere, in forma debita faciatis.*

however, a large proportion of the existing Warrants are found as English versions which display considerable originality of composition, especially when couched in an epistolary form.

For certain purposes, as we have seen, an impersonal form of writ was used, especially for procuring writs of *Allocate* and Letters of Protection. This is the well-known *Fiat* which may be regarded as an official minute, resembling the later "Signed Bill" or "Immediate Warrant," rather than as a complete diplomatic instrument<sup>1</sup>.

In addition to the usual verification<sup>2</sup> by Privy, Secret and Signet Seals or by the Sign Manual, the distinctive armorial seals are again employed. In certain cases also a Bill or *Fiat* is procured by the Treasurer, Butler, Ullager or other great Officer acting strictly within his departmental jurisdiction<sup>3</sup>.

So matters stood when the famous Act of 27 Henry VIII, c. 11 was passed, which effected a complete reformation of the existing procedure. For some time past there had been signs of an increasing formality in the execution of these Warrants, and a sharper line of distinction had already been drawn between the several stages of their departmental preparation. In one direction we notice that the drafts are countersigned and expedited with the addition of conspicuous departmental memoranda and official counter-signatures. In another direction we see a tendency to develop the second stage of the proceedings by elaborating the forms of Privy Seal Writs and Bills and of Signet Letters and Bills. In spite of this, however, it will be evident from the number of petitions with appended drafts preserved as Warrants under the Sign Manual<sup>4</sup>, as well as from the terms of the above Act, that the good offices of a friend at Court, or a convenient show of poverty, could enable the formal issue of letters of the Signet and writs of the Privy Seal to be readily dispensed with. This evasion of the customary fees struck a blow at the whole official system which had been gradually evolved since

<sup>1</sup> Cf. above, p. 266 and *Formula Book*, No. 123. The *Fiat* varies in form according as the directions given are "general" or "special." In the latter case details amounting to a draft of the intended writ may be given therein.

<sup>2</sup> These Seals are invariably affixed to the dorse of the Letter, Writ or Bill and appear to have been intended in the case of the Signet at least to secure the document when folded and closed by a band. In later times a distinction between a Privy Seal Writ and Letter consisted in the execution of the latter by means of a pendent seal (cf. above, p. 261). In the case of Privy Seal Bills (Protections), however, the Seal was usually affixed on the face and immediately following the last word of the writing.

<sup>3</sup> Cf. above, p. 264 and *Formula Book*, Nos. 128—132.

<sup>4</sup> Chancery and Exchequer T. of R. Warrants for Issues, Series II. The counter-signatures of these instruments are noticeable, a device found as early as the reign of Edward II.

the reign of Edward I. Moreover, in addition to these vested interests two new departments of State had to be considered, those namely, under the charge of the Secretary of State and the law officers. A somewhat cumbrous procedure was eventually enforced by the operation of the new Act. Hitherto, as we have seen, the royal warrant might take the single form of a Privy Seal, a Privy Seal Bill, a Signet Letter or a Sign Manual Warrant, enclosing or appending, respectively, a Petition for, or a draft of, an instrument under the Great Seal. In future, however, the traditional Petition was to be taken under the protection of the Secretary of State, who procured the Sign Manual Warrant, which might no longer, except in special cases, serve as an "Immediate" Warrant for the issue of Letters Patent. Instead, the Warrant only authorized the preparation of a "King's Bill" which represents the mediaeval draft of proposed Letters Patent, which had been hitherto commonly amalgamated with the Petition and the subsequent Warrant. At the same time it should be noted that the modern procedure cannot be regarded as permanently established for many years after the passing of the Act of 1535, owing to the continued use of Signed Bills as "Immediate" Warrants. In the next century we find a greater uniformity of procedure, especially in the case of formal grants<sup>1</sup>. Moreover, it is now the duty of the department of State<sup>2</sup> which procures a Warrant to submit the petition whereby it first originated to the law officers of the crown or other officials concerned in the matter. The "Reference" was followed in due course by a "Report," upon consideration of which a Sign Manual Warrant was issued for the preparation of a King's Bill for which the law officers were responsible<sup>3</sup>.

This "Bill," which again bore the Sign Manual, was then passed on to the Signet Office, and thence under the Signet to the Privy Seal Office for formal execution. Here, in consideration of the payment of the official fees, the protocols were completed and the departmental seal was again appended. Thus the Secretary of State's Signet was the authority for the Lord Privy Seal to issue a writ of Privy Seal, which in turn authorized the Chancellor to issue the Letters

<sup>1</sup> See *Formula Book*, pp. 114—118 and below, Appendix, where a concrete instance is displayed.

<sup>2</sup> These included the quasi-judicial courts of Wards and Surveyors as well as household officers and the independent patentees of the crown, but the great majority of Letters Patent were procured by the Secretaries of State.

<sup>3</sup> The *Caveat* which might be entered by interested parties at this stage was at first registered in the Secretary of State's Office, though regarded in later times as under the supervision of the law officers. It was also employed by the Treasury Board.

Patent. These in an earlier period might have been already drafted by the applicant, or by the official department which had procured the authority of the Sign Manual for their expedition.

There was, however, something else that the officials did for their money. At each of these stages in the slow progress of the Petition towards diplomatic maturity an official entry was made of the nature of the proposed grant which has served a useful purpose in these later times. An abstract was also inscribed upon the instrument itself in its several stages corresponding to the official Docquet<sup>1</sup> preserved in the well-known Docquet Books of the several departments concerned. In addition to this abstract the usual official memoranda and counter-signatures were appended to the drafts. The seals themselves were in this later period attached by means of strips to the dorse of the instrument, another variation of the ancient practice of sealing *en placard*. In one case or another, therefore, we should find the several documentary evidences relating to the issue of Letters Patent which, for the sake of clearness, have been enumerated in tabular form as an Appendix to the present chapter. At the same time it should be remembered that the practice herein was not only conventional but somewhat arbitrary, whilst owing to the large number of documents missing from the several official series the actual procedure in individual cases can no longer be ascertained with any certainty. Moreover, it is necessary to distinguish between the regular procedure and the official practice whereby Letters Patent were issued for departmental or extraordinary purposes by virtue either of an "Immediate" Warrant procured by the Secretary of State or by a Signed Bill usually procured by the Chancellor himself<sup>2</sup>. These special instruments passed the intermediate stages of expedition, being merely noted by endorsement of the royal warrant and abstracted in the Docquet Books of the offices concerned, in order that the usual fees might be claimed as directed by the Act of 1535.

<sup>1</sup> This Docquet as seen in the King's Bill is possibly derived from the old official presentment of the original petition as a heading to the drafts of the proposed instruments.

<sup>2</sup> See *Formula Book*, p. 117. An elaborate account of this procedure will be found in the *Deputy Keeper's 2nd Report*. A short and admirably clear account will be found in Mr Scargill-Bird's *Guide*.



## LETTERS, STATE PAPERS AND DEPARTMENTAL INSTRUMENTS.

### (a) *Mediaeval and Modern Official Letters.*

IN the State Papers of the 16th century, regarded as Royal Letters or official correspondence, the devolution of the mediaeval writ or letter missive can be clearly traced. Specimens of these diplomatic forms may still be found in a considerably later period, but for a long time past they have been giving place to an epistolary modification which has been evolved from the trilingual instruments in use during the greater part of the 15th century. At length, with the beginning of the 16th century, the bulk of the official correspondence hitherto associated with the practice of the royal Chancery has begun to assume a conventional and vernacular form.

An epistolary style was naturally employed in this country, as abroad, from a very early date. Its use, however, may be regarded in the light of a literary exercise rather than as a means of official communication, although we have seen that the composition of the vernacular writ was materially affected thereby, even before the Norman Conquest<sup>1</sup>.

In one aspect, therefore, the private letter appears to furnish us with better examples of the epistolary style than the royal missive itself. On the other hand, we must remember that the existing series of mediaeval official letters is somewhat fragmentary and that there is no consistent use of epistolary forms until the general adoption of the vernacular style<sup>2</sup>.

Whether the formulas of this vernacular letter can be derived directly from the French or Latin models of an earlier period is a somewhat obscure point. Presumably, however, they are versions of the French, influenced to some extent by classical models, and possibly also by Old English traditions.

<sup>1</sup> Above, p. 208.

<sup>2</sup> Distinct epistolary formulas were recognized by early writers in the dictation of the mediaeval letter which was regarded as being composed of five parts; 1 *Salutatio*, 2 *Exordium* (or *Benevolentie Captatio*), 3 *Narratio*, 4 *Petitio*, 5 *Conclusio*, (Cf. F. Hahn, *Collectio Munimentorum* (1724), I. 279 sqq.).

In another aspect, however, they may be regarded as reproductions of mere oral conventions, the everyday Salutation, Address and Valediction which were highly elaborated in a more ceremonious age<sup>1</sup>.

The conventional letter above referred to was undoubtedly of a more cosmopolitan character than the true diploma. In this country, as in others, the influence of the Roman Curia is clearly seen in the royal and ecclesiastical correspondence which furnishes the greater number of mediaeval letters before the advent of the merchant-prince and the statesman-scholar. The Paston, Stonor and Cely Letters<sup>2</sup> are indeed merely survivals of a large class of everyday correspondence composed in the *Stilus Anglicus*, which may be dated from or near the beginning of the 15th century. At the same time it will be found that the essential formulas of these vernacular letters are practically versions of French and Latin phrases which are in turn derived from an early Chancery style<sup>3</sup>.

The chief distinction then between the mediaeval letter and the many-sided writ is seen in the transposition of the Superscription and Address, the omission of the official Dispositive or Injunctive clauses, and the substitution of a mere Valediction for a formal Attestation. At the same time the respective styles of the Superscription and Address are preserved in the modern letter, and the essential words of the Salutation and even of the Notification and Exposition are easily recognized<sup>4</sup>. In these epistolary formulas, however, we notice certain variants which are characteristic of the period or of the position of the scribe; for probably every age has had its own "Polite Letter Writer."

Before the middle of the 14th century the less formal and more direct style of Address, which is apparently of ecclesiastical origin, has begun to be extended to a wider circle of correspondents. The characteristic feature of this privileged style, whether in Latin, French or vernacular scripts, is the direct but impersonal Address, and the

<sup>1</sup> It is obvious that in our modern forms of salutation and leave-taking the same elementary courtesies are preserved. The Address, however, like the Superscription or Subscription, is not required where the parties are acquainted; though it is retained in the preliminary form of personal introduction.

<sup>2</sup> The remarkable vicissitudes of the first-named collection are well known. The others owe their preservation to having been deposited in official custody in the course of litigation (Ancient Correspondence (Chancery) and State Papers Supplementary).

<sup>3</sup> *e.g.* Letters Missive under the Signet or Sign Manual. The Old English writ with its epistolary innovations perhaps forms a link between the two styles.

<sup>4</sup> The abbreviated or epigrammatic forms of Address and Salutation found in mediaeval letters, such as *Salutem quam sibi and suo patri, &c.* do not seem to be perpetuated in later English forms. For these and other epistolary types, see *Formula Book*, Nos. 155—171.

displacement of the initial Superscription which, by an easy transition, eventually finds its place as a Subscription. The Address itself is completed by the endorsement of the title of the person addressed, whilst the title of the writer and the purport of the letter are also frequently appended, being docketed in a later period as a memorandum of Receipt<sup>1</sup>.

With this simple change of style the evolution of the modern State Paper or departmental Letter is practically completed. The variants are few and unimportant. An Invocation may be prefixed to the ceremonious Address by devout correspondents. The Notification or Exposition may precede a parenthetic Address, whilst in more modern times a narrative form of letter, commonly described as "in the third person," comes into use, and here a formal Superscription once more precedes an equally formal Address and is associated with a ceremonious Salutation; the Notification being usually well defined.

Naturally the epistolary style, affected by a number of independent departments during four centuries of official activity, will exhibit periodical changes as in the royal Chancery itself. Again, the individuality of the writer counts for something both in respect of the choice of recognized forms and in the recourse which may be made to certain conventional devices<sup>2</sup>.

On the whole, however, the official letter, whatever its purport, was singularly homogeneous in point of style during successive generations, although we are conscious of a considerable interchange of diplomatic and epistolary forms as late as the middle of the 18th century. But long before this date, the familiar Address and Subscription of the modern letter can be recognized in our official correspondence. It has been already observed that the evolution of the characteristic formulas would seem to have been effected by a simple

<sup>1</sup> It is curious to notice that this formal Address, when it is not written on the band secured by the Seal, seems to have been originally used in connexion with the appended Subscription, the former being written in the left-hand corner of the letter and the latter to the right of it, the seal being sometimes affixed between them in the centre of the sheet as,

"To his dear lord A.

LS

From his humble servant B."

In many cases, however, the Address and Subscription are used independently, though the practice of writing each of these in the same position has endured for several centuries. For a specimen of a 15th century address see Public Record Office Museum, Case H, No. 84.

<sup>2</sup> Such as the plea of haste or the excuse for poverty of ideas which may (as now) precede the Valediction. An abrupt conclusion seems to have been equally avoided by later mediaeval writers, who employ an ejaculation which savours of the diplomatic *Apprecatio* in such formulas as "Which knoweth Almighty God, who, dear lord, have you ever," &c.

transposition, whereby the nominative Superscription is displaced by a vocative Address. The Final clause announcing the terminal Subscription was apparently derived from an expansion of the old Superscription following the dative Address, and preceding the Salutation which, like the terminal Valediction, is now dispensed with. Thus, instead of beginning in the mediaeval Latin style, "To his dear lord A. his humble servant B. gives greeting and due obedience," and ending, "May your lordship, in God's keeping, ever fare well," the later correspondent, following the process indicated above, will write, "My lord—I am, my lord, your lordship's most obedient, humble servant B.," addressing the letter both on front and dorse "To the lord A., &c., &c."

It has also been previously observed that the process by which this modern version has been elaborated may be traced without much difficulty by means of a progressive series of formulas in the trilingual texts of the 15th century, and the same progressive evolution may be noticed during the two succeeding centuries. The process of evolution is, however, slow and somewhat obscure. The vocative does not always replace the dative Address and the letter frequently begins with a Salutation<sup>1</sup>, and, in some cases, with a Notification or Exposition. Even when, by the middle of the 16th century, the vocative Address has become well established, the ceremonious style of an earlier period is still preserved in a vernacular version and extends to the remaining clauses. The person addressed is "worshipful," "right worshipful," or "honourable." Formerly, he would have been "most excellent," or "illustrious," and he still remains "reverent." The idea of feudal allegiance will be found to have survived in the several equivalents for the mediaeval *fidele servitium*, *debita obsequia*, *humilis minister* and the like, giving us such common forms as "to command," "dutiful," "bounden," "obliged," "faithful" and "humble and obedient" (servant).

These and kindred forms are freely used in official and semi-official correspondence down to the middle of the 17th century, side by side with a style of endearment which has equally a mediaeval origin. Here "dilectus," "amantissimus," "carissimus," "amicus" and the rest have their equivalents in "dear" (sir) and "loving" or "affectionate" (friend)<sup>2</sup>.

<sup>1</sup> "After my hearty commendations."

<sup>2</sup> "Sir," as a simple Address, is rare before the 17th century in the English style, though common in the Latin and French. After the Restoration it is the usual alternative to the archaic style still retained in departmental correspondence.



Again, the inevitable Salutation, after losing its Latin form, retained for some time in French and English versions, is stereotyped as "After my hearty commendations," a phrase which lasts longer in official than in private correspondence.

The epistolary form of the Notification is less irregular, though it is not an essential element of either the mediaeval or the modern letter. In the former, *Significamus* is not infrequently used instead of the diplomatic *Sciatis*, and the early vernacular version "we let you wit" is superseded by the equally persistent phrase, "These are to inform you<sup>1</sup>." The Valediction lingers till the 17th century in the formula "I take my leave," but the pious committal to a Holy keeping was possibly avoided as a superstitious usage<sup>2</sup>.

The use of distinct styles, for formal and familiar occasions respectively, is characteristic of the official epistolary style of the Middle Ages. This practice was continued by the secretariats of a later period, and both forms occur in Royal Letters down to the beginning of the last century. The Latin style was purely conventional during the 18th century, but in the use of French there was scope for some discrimination. The correct Address of a foreign potentate varied according to the circumstances of the case. At one time we find the mediaeval style "Très haut, très excellent et très puissant prince, notre très-cher et très-aimé" with a committal to the "sainte et digne garde" of the Almighty. At another time a more suitable Address is found in "Monsieur mon frère," concluding with the expression of a "distinguished consideration." The use of the vernacular which had been chiefly employed since the close of the 15th century in Royal Letters directed to the subjects, did not apparently extend to this diplomatic correspondence before the days of the Regency, and then merely amounts to a literal version of the familiar French form, as "Sire, my brother," &c.

<sup>1</sup> Cf. *Si placet*, Plese—assavoir, "Plese it—to understand." As an alternative to this Notification we have as an *incipit* the common form of Exposition, "Understanding that," as well as the expressive declaration "So it is that."

<sup>2</sup> Other survivals of early Salutations and Valedictions will perhaps be seen in such phrases as "presents his compliments" and "with much truth." Even the familiar "ever" has some significance, for *semper* is used with special emphasis in mediaeval formulas; whilst such common forms as "Believe me," "I remain," "Wishing you," "With kind regards," &c. may have their counter-parts in an ancient epistolary phraseology.

(b) *Secretarial Instruments.*

It will be evident from the above description of the evolution of the modern letter that no sharp distinction can be drawn between the official and the private types before the middle of the 17th century. This as we have seen was apparently due to the persistent use of certain diplomatic forms which, though mere survivals of an earlier practice, were chiefly employed for the composition of official missives down to a comparatively modern period.

The casual division of official business between the Secretary of State's department and the Chancery throughout the 16th century has been already noticed. The changes in political and judicial procedure during this period resulted in the final absorption by the Secretariat of the political business formerly conducted by the Chancellor, following the precedent of the earlier usurpation of similar functions by the royal Wardrobe. As the result of this encroachment we still find preserved in the existing collection of State Papers a large number of drafts and copies of diplomatic instruments, and a long series of entry books or Docquets of Privy Seals, Signed Bills, Signet Letters, and Sign Manual Warrants<sup>1</sup>.

The diplomatic features of these instruments have been described elsewhere, but their influence upon the epistolary forms of contemporary State Papers and departmental Records may be noticed here.

The importance of the Privy Seal and Signet "Letters" in this connexion is especially noticeable, since they supply the common form of the official missive employed during the whole of the 16th and the greater part of the 17th centuries<sup>2</sup>. These so-called letters are in effect diplomatic instruments under the Privy Seal or Signet, distinguished only from ordinary writs and bills by their epistolary form. The mediaeval despatch moreover, as we have seen, is apt to degenerate, in the ministerial correspondence of the 17th and 18th

<sup>1</sup> See Public Record Office "Indexes and Lists," No. 3, and *Formula Book*, Nos. 172 sq. Proclamations might also be regarded as secretarial instruments, inasmuch as they are counter-signed by the Secretary of State and are concerned with political matters. On the other hand they are public instruments, and they are not preserved in departmental collections. For the modern aspect, see Anson *Law and Custom of the Constitution* (1907), II. (1) p. 50.

<sup>2</sup> e.g. The King's and Secretaries' Letters amongst the Domestic Entry Books of the Secretariat. The King's Letter Books contain chiefly the well-known "Royal Letters," being Letters of Credence, Notification, Exhortation, Congratulation or Condolence addressed to foreign potentates, some of which are written in a familiar style as stated above.

centuries, into an official affectation. Its diplomatic features may be described as follows. There is a vocative, impersonal Address and a Valediction, both in a style of affection<sup>1</sup>. The Salutation and Notification preserve conventional versions of earlier forms<sup>2</sup>. An Exposition is often found<sup>3</sup>, and the Dispositive or Injunctive clause when present is in the diplomatic form<sup>4</sup>. In some cases there is a Final clause in the shape of a further Injunction or Proviso which is of purely mediæval origin<sup>5</sup>.

In the epistolary instruments under the royal Signet and Sign Manual, practically the same form is preserved from the 15th century to the 19th. Indeed, but for the fact of their occurrence in departmental Letter Books it would scarcely have been necessary to examine their construction further. Such an examination will, however, indicate the use that was made of these instruments as models for the conventional official letter of the 17th century.

### (c) *Departmental Instruments.*

In an earlier period we should be almost justified in assuming that the official letter, as distinguished from these royal instruments, on the one hand, and private correspondence on the other, did not as yet exist. It was apparently called into existence by the erection of the new State departments under Boards of Commissioners from the middle of the 17th century<sup>6</sup>. These official bodies acting in the name of the crown made use of the general forms of royal instruments, but with certain necessary modifications.

The departmental letter that was thus elaborated may be briefly described as follows. There is a conventional Salutation<sup>7</sup> in the place of an Address, followed by an Exposition<sup>8</sup>. The Injunctive clause is usually found as a direction or requisition<sup>9</sup>, and is almost invariably followed, as in a Royal Letter, by the usual official warranty<sup>10</sup>. There is no Valediction, but the letter concludes with

<sup>1</sup> "Right trusty and well-beloved—and so we bid you heartily farewell."

<sup>2</sup> "We greet you well," "And we let you wit that."

<sup>3</sup> "Whereas," &c.

<sup>4</sup> "We are pleased by these presents to grant," &c. "Our Will and Pleasure is," &c.

<sup>5</sup> "For it is our pleasure," &c. (cf. *Voluntas enim*). "Wherefore we will and command," &c. "Provided that," &c. "And these our letters shall be—a sufficient warrant," &c.

<sup>6</sup> For Trade, the Navy, Admiralty, Ordnance, Customs, &c.

<sup>7</sup> "After our hearty commendations."

<sup>8</sup> "Whereas," &c. "Forasmuch as," &c.

<sup>9</sup> "These are to direct (pray) and require you," &c.

<sup>10</sup> "And for so doing this shall be your warrant."

a Subscription in affectionate terms<sup>1</sup>. From the latter part of the 17th century the full Address was usually appended to the letter itself, but the direction for delivery was also endorsed. These modifications of the traditional Royal Letter doubtless influenced to some extent the style of the modern official despatch, although the latter is mainly indebted, as we have seen, to private epistolary models.

Again, just as the Signet Letter was utilized for the above purpose, so the instruments of the Chancery itself served as models for various diplomatic documents, which have received appropriate titles in connexion with the administrative work of the several State departments. These are the Warrants, Orders, Instructions, Commissions, which furnish an independent series of diplomatic and epistolary forms which were used in the place of the conventional out-letter on formal occasions.

In the first place, it may be observed that although the above forms are to be met with amongst the Records of every department of the State, as well as in the royal Secretariat itself, it is perfectly possible to distinguish between the instruments of either description. It is also possible, as we have already noticed, to classify the Secretarial instruments according to their use for home or foreign affairs. In the case of departmental Records, however, the official titles are frequently misleading. Moreover, these instruments are frequently entered under general headings, so that a Letter Book may contain warrants, and a Warrant Book, letters.

Of the above instruments, the Warrant as a departmental Record must be distinguished from the royal warrants preserved in the files of the Chancery. The latter in the shape of Writs or Bills under the Privy Seal, Signet or Sign Manual were issued by the King in Council or by his Secretary of State or, for certain purposes, by a special office<sup>2</sup>. From an early period, however, we have seen<sup>3</sup> that it had been usual for warrants to be issued for certain purposes on behalf of the chief departments of State, just as judicial writs were issued by the several courts of law from a still earlier period. Such departmental warrants were countersigned by the great officers of State<sup>4</sup> and might even be entered, as precedents, in the Records

<sup>1</sup> "Your loving friends, A. B. C."

<sup>2</sup> The Privy Seal and Signet Offices the latter of which was practically a branch of the Secretary of State's department. For these and other Departmental instruments, see *Formula Book*, Nos. 172—208.

<sup>3</sup> Above, p. 267.

<sup>4</sup> *e.g.* The Treasurer, Butler, Chamberlain. These warrants were missive, or executive, in character and also served as orders for letters under the Great Seal.



of the department concerned<sup>1</sup>. At the same time it will be found that these warrants are still preserved as Curial instruments till the middle of the 16th century. Thenceforward they were appropriated by the Secretariat and the new departments above referred to, the old diplomatic practice connected with the issue of the Seals being left in the hands of the seal-bearing officers.

The early Warrants of the Royal Household are followed by the departmental Warrants of the Treasury, and these in turn by those of the Ordnance, and after an interval by the Records of the Admiralty and War Office. All of these might take the form of an instrument under the Sign Manual or else that of an authority issued in the names of the royal commissioners constituting the departmental Board. In the latter case the Warrant might be either diplomatic or epistolary in form according to the occasion of its issue or the practice of the department.

These Sign Manual warrants do not differ in any respect, except as to the subject-matter, from the diplomatic forms, neither do the purely departmental types differ materially from the departmental Letters already described or from the Orders and Instructions which will be presently referred to. The essential clause "And this shall be your warrant" is found in all alike, but special forms occur to which distinctive titles have usually been applied. Amongst these we may notice the Warrants of the Secretary of State (whether "general" or "special") for the committal of offenders, "Post-warrants," "Licenses to pass the Sea," warrants for appointments, and some others<sup>2</sup>. Finally, the Warrant appears in common use for purposes of local government by an authority delegated to Colonial governors or country magistrates<sup>3</sup>.

Although a distinction is usually made between the departmental Warrant and Order, these instruments are not easily distinguished in practice, and it might be shown that their distinctive titles are often loosely used<sup>4</sup>. Again, we find some of the earliest known examples of departmental Orders<sup>5</sup> classified as "Minutes," and the precise difference between Orders and Warrants, Commissions or Instructions could scarcely be determined from their diplomatic

<sup>1</sup> *e.g.* The Lord Chamberlain's Warrant Books.

<sup>2</sup> See Classified List.

<sup>3</sup> *e.g.* Warrants for pardons and licenses of various kinds, cf. Appendix.

<sup>4</sup> They are occasionally utilized in the composition of private instruments, and the form of Order prepared by Insurance Offices to authorize the deduction of premiums from official salaries still contains the phrase, "And this shall be your warrant for so doing."

<sup>5</sup> *e.g.* Of the Ordnance Office.

construction alone. Certainly the occurrence of the well-known clause of warranty does not suffice to distinguish the Warrant from the Order. Indeed the Order has no distinctive formulas of its own, and we are best able to identify its occurrence in connexion with naval<sup>1</sup> and military<sup>2</sup> rather than with civil<sup>3</sup> or fiscal<sup>4</sup> operations.

Possibly the Order may seem to be on the whole somewhat less formal than the Warrant. The conventional Salutation is often dispensed with and the Injunctive clause is somewhat impressive. Finally, like the Warrant, Commission and Instruction, the official entry of the Order often takes the form of a mere Docquet<sup>5</sup>.

The Instruction here referred to resembles in some respects an Order and in others a departmental Letter. In some cases, as in connexion with naval and military operations or diplomatic missions, it has a technical significance.

The departmental Commission, as distinguished from the formal Patent of Office, is more carefully drawn than either the Order or Instruction, and presents a very similar form for both the naval and military services. There is also a distinctive form in use for the diplomatic service. The Commissions issued under "the power and authority" of a departmental Board differ only from the royal Commissions in not bearing the Sign Manual.

In the letters and instruments described above we have examples of true diplomatic construction, illustrating the successive stages of the devolution of the charter from the close of the Middle Ages to our own times. In addition to these, however, there are several special and casual types amongst the "Departmental Records" which possess a certain interest for the purpose of diplomatic study. The departmental procedure in respect of the registration and consideration of correspondence and other business which formed the subject of the official Letters and Orders, has been already referred to in another connexion<sup>6</sup>. This procedure is to some extent represented in an earlier period by the "Acts" and "Minutes" of the Council and of the extraordinary courts erected during the Tudor period, but it attains its highest point of development in the case of the several

<sup>1</sup> "Orders and Instructions," &c.

<sup>2</sup> "Marching Orders," &c.

<sup>3</sup> "Orders in Council," &c. These are diplomatic instruments resembling Proclamations.

<sup>4</sup> "Money Orders," &c. These are rather Minutes.

<sup>5</sup> In fact the official entry books of Warrants, Commissions and Orders compiled during the 18th and 19th centuries are little more than lists of names for specific dates, and it has sometimes proved to be a matter of considerable difficulty to ascertain the form of one of these instruments in a particular period.

<sup>6</sup> Cf. above, p. 277.

departmental Boards and the Committees of the Council which form a new feature of the royal administration during the 17th century.

The practice in question is accountable for an extensive collection of Registers, Minutes and Reference or Report books in which there is little scope for variety of form. These Registers, indeed, can scarcely be regarded as diplomatic documents though interesting for the purpose of comparison with similar official compilations in an earlier period.

The Minutes or Journals, however, exhibit a conventional formula which is preserved to the present day. This includes an official heading of an archaic character, followed by the names of the officials present<sup>1</sup>. The business in hand is duly recited and disposed of by a Minute which is sometimes regarded as an Order.

Mention has previously been made of the common official practice of referring intricate or technical matters to other departments or to individual experts. The formula of Reference is very much the same in every case. Usually, it is in the form of a memorandum, personal or impersonal, stating that the matter under consideration is referred to certain officials who are to consider thereof and report their opinion as to what is fit to be done in the same. In many cases the matter is already under the consideration of another department, which has transmitted the case for an expert opinion, and here the Reference appears in the shape of an enclosure.

The Report, Representation<sup>2</sup>, or Opinion<sup>3</sup> is returned in due course as a result of the Reference. This return is made in a conventional form, characterized by a show of deference<sup>4</sup>. In some cases space is left after the entry of the Report for the final Order of the Board thereon. In a later period the style of these reports, especially in the case of legal opinions, is less ceremonious.

It will be gathered from a previous account of the remaining types of Departmental Records, such as precedent and commonplace books and deposited documents, that these are semi-official or private compositions which do not concern our present purpose. The latter types, indeed, cannot be regarded in any sense as departmental instruments, but unlike the casual deposits amongst the ancient Records their diplomatic construction is scarcely worthy of serious consideration, whilst the former kind are usually so much abbreviated as to present no diplomatic features whatsoever.

<sup>1</sup> "At a meeting of the, &c. At X. the — day of — &c. Present, A, B, C," &c.

<sup>2</sup> So termed in the records of the Board of Trade.

<sup>3</sup> Of the Law Officers.

<sup>4</sup> Cf. the Notification "May it please," &c. and the conclusion "All which is humbly submitted," &c.

## ROYAL SURVEYS, INQUISITIONS AND ASSESSMENTS.

### (a) *Agrarian Surveys.*

THE origin of the English royal Inquest, which has produced one of the largest and most important classes of our Public Records, may or may not be found in the precisely similar device employed in the administrative system of the Frankish kingdom. Such an origin has been assumed in the case of the native diplomata on evidence of a far less substantial character. Nevertheless we are warned that the close resemblance between the laws and ministerial proceedings on either side is nothing more than plausible analogy. To derive one constitutional practice from the other would, we are told, be positively unsafe. It is fortunately unnecessary, for the purpose of a diplomatic comparison, to press this interesting analogy any further. The pre-existence of certain diplomatic forms in the court of Charles the Great may be noticed without insisting that the constitutional procedure which those forms might imply was borrowed from this foreign source by the Conqueror or his predecessors. The suggestion, however, is so obvious that it can scarcely be suppressed<sup>1</sup>.

The resemblance which is observable between the Frankish and Anglo-Norman systems of agrarian valuation is rendered still more striking by the use in both of identical formulas and terms which often have a technical significance<sup>2</sup>. In both cases, moreover, it is noticeable that the Inquisition as a piece of ministerial procedure

<sup>1</sup> It is interesting to find, in an official survey made of the holdings of the North French colonists of Acadia in the year 1752, the following formula which bears a curious resemblance to the Frankish surveys of the 9th century. "The homestead that B. occupies was given to him verbally by A. It contains about — toises frontage on the sea-shore. There are on it bench and scaffolding for the drying of the fish and 2 boats, and enough land cleared to sow a barrel of wheat. There is a very good garden which contains all sorts of fruit trees. It has — men and — boys. He has in live stock one bull, one cow and 3 goats and 12 fowls" (*Report on Canadian Archives*, 1906).

<sup>2</sup> Cf. *Capitulare Aquense*, 807 (ed. Pertz), c. 7; *Capitulare de Villis*, 812, c. 62; and the *Forma Inquisitionis*, printed in Pertz, III. 175; *Capitulare Aquisgranense*, 812, c. 5 and c. 7; *Annales Hincmari*, s.a. 869, in Pertz, I. 481; and *Polyptichum Irminionis Abbatis* (ed. Guérard), pp. 30 sq. and 306.



may not only be employed for distinct purposes on several occasions, but for all of these purposes at one and the same time. This composite character is apparently due to the fact that these inquisitions were frequently consequent on royal edicts of a more or less statutory character.

Traces of a similar ministerial device may be found in the States of Southern Europe, that were influenced by the Norman civilization<sup>1</sup>.

The agrarian survey itself presents the same diplomatic construction as will be observed in the case of other royal Inquisitions. There is a royal Precept<sup>2</sup>, to which may be appended an explicit *Forma Inquisitionis*<sup>3</sup>. To this a categorical Return is made by a sworn inquest, and the official record is delivered into official custody at a given date. Finally, a carefully arranged copy or digest of the original returns may be preserved in a Register for official or private custody.

The constitutional distinction which appears to exist between the agrarian survey and the fiscal inquest need not perplex the student of diplomatic formulas. Both alike are royal inquests and the collection of the geld may become an ordinary incident in the manorial economy.

In the case of agrarian surveys, we know that such valuations were made on the continent at a very early date. In this country, however we have no evidence that these surveys were prepared as the result of royal precepts. A brief Return of this nature is found as early as the first years of the 10th century, in the Beddington Survey, which has been printed in the *Cartularium Saxonicum*<sup>4</sup>. This interesting fragment, which doubtless owes its preservation to the diplomatic form in which it was composed, is unfortunately unique, and it should be added that it is derived from a suspicious source<sup>5</sup>. Perhaps such agrarian descriptions had already taken a common form

<sup>1</sup> Cf. *Codex Ravennatensis* and *Inquirições dos primeiros reinados de Portugal* (*passim*).

<sup>2</sup> In the Carolingian capitularies (cf. *Capit. de Villis*, c. 62) the substance of the writ is given as an "edict." For the Anglo-Norman writ *ad inquirendum* see *Liber Eliensis* (ed. Hamilton), p. xxi.

<sup>3</sup> Cf. *M. G.* II. 175, *Liber Eliensis* (*loc. cit.*), and Domesday Book of St Paul's, p. 111. In most cases nothing more than a descriptive heading is found which recites the procedure indicated by the writ in a narrative form. Cf. the Canterbury surveys of 1216 in Exch. K.R. Ancient Extents, 46.

<sup>4</sup> *C. S.* 618, 619.

<sup>5</sup> The Winchester cartulary (MS. Add. 15350), 12th century. The text of this return is evidently corrupt in respect of the stock entries, but can be to some extent reconstructed from the conventional formulas of the 13th century.

throughout western Europe, whilst from a still earlier date occasional descriptions of land and stock are found in Old English wills or conventions<sup>1</sup>.

The Domesday Survey, stands alone as an agrarian valuation, although we may well suspect that some system of royal survey was in use during the pre-Conquest period<sup>2</sup>. Again, although the characteristic formulas of the Domesday Survey are found to prevail in the mixed fiscal and agrarian inquisitions of the 12th century, this circumstance must not be regarded as proving the abeyance of the agrarian survey of a Frankish type such as may be seen in the Beddington "charter" above referred to. It is true that no surveys of this nature have been preserved before the close of the 12th century, but the abstracts of manorial accounts recorded in the Pipe Rolls prove that this conventional enumeration of agrarian products was still in use<sup>3</sup>. There can be little doubt, however, that purely agrarian surveys during this period were subordinated to the all important business of the assessment and collection of the royal geld. Not only were the geld inquests more carefully preserved, but the new and inquisitorial formulas employed on these occasions were utilized for the purpose of agrarian and even of feudal valuations. To this composite type belong such descriptions as that of the Peterborough manors in the reign of Henry I<sup>4</sup>, the inquisition taken by the Canons of St Paul's, beginning in the reign of Henry II<sup>5</sup>, and the *Rotuli de Dominabus* of the same reign<sup>6</sup>. In these, besides a calculation of the hidage *ad geldum Regis* and of military service or feudal incidents, the number of men and ploughs, the rent-roll and services, and the condition of the stock is also ascertained<sup>7</sup>. At length, when the basis of fiscal valuation was shifted, in the 13th century, to the knight's fee and the tithe, the agrarian survey resumes its old diplomatic aspect under the title of a "royal extent." Here, whilst the process employed was strictly inquisitorial, the object in view is not merely fiscal supply but

<sup>1</sup> Cf. above, p. 205.

<sup>2</sup> Mr L. O. Pike, however (*Public Records*, p. 11), regards the royal inquisition of 1086 as a new departure, in the shape of a returnable writ.

<sup>3</sup> *Pipe-Roll of the Bishopric of Winchester* (1902), p. ix sq.

<sup>4</sup> *Chron. Petroburg.* (Camden O.S.), p. 157.

<sup>5</sup> Domesday of St Paul's (Camden O.S.), p. 111, which may be regarded as a private survey in imitation of royal inquests.

<sup>6</sup> Ed. S. Grimaldi.

<sup>7</sup> In addition to the above the *Boldon Book* (1183) and *Survey of the Templars' Lands* (1185) may be regarded as agrarian surveys, though neither was authorized by a royal writ.

the improvement of the royal economy<sup>1</sup>. On the other hand, notices of agrarian conditions figure incidentally in most of the political inquisitions of this and a still later period<sup>2</sup>. Moreover, such matters formed part of the routine business of the judicial Eyres or special commissions chiefly in connexion with royal escheats<sup>3</sup>.

For general purposes, however, and especially for the convenience of private owners, the "Extent" was recognized as the approved method of agrarian survey throughout the remainder of the feudal period, and its procedure has even been formulated by a reputed Statute<sup>4</sup>. A single glance at the *Forma Inquisitionis* of the *Extenta Manerii* will show that we have here the final evolution of the agrarian survey, a familiar feature of the Carolingian administrative system and fitfully traced in English royal or private instruments from the 10th century to the 13th.

#### (b) *Fiscal Inquisitions.*

It has been previously suggested that in the Domesday Survey with its "satellites" and fiscal successors, we can recognize the normal diplomatic constituents of the Frankish imperial inquest. At the same time, in these Inquisitions made by local juries as to the extent, profits and stock of royal or beneficiary estates, together with the titles, customs and services relating thereto, special stress is laid upon the assessment of the King's "geld," or its later equivalents in the shape of carucage, scutage, or other devices of imperial taxation, and the instruments with which we are here concerned receive their characteristic form from this exigency. The formula of the existing Returns clearly implies the issue of an antecedent precept which was also expounded in a *Forma Inquisitionis*. Finally, we can ascertain the probable nature of this Writ and Form of Inquisition alike, whilst we can classify the Returns themselves according to their local variants and official enrolments.

Here, however, we are confronted at the outset with a difficulty which is only one of many that have occurred to those who are concerned with the interpretation of these early texts<sup>5</sup>. In the case

<sup>1</sup> Cf. Chancery Misc. Inquisitions, *passim*, and below, p. 296. In some cases apparently the agrarian conditions form part of a semi-judicial enquiry. Cf. the "extent" of Ospring in *Testa de Nevill*, p. 217 sq.

<sup>2</sup> e.g. *The Hundred Rolls*.

<sup>3</sup> See below, p. 297.

<sup>4</sup> *Stat. of Realm*, I. 242. Cf. also the provisions for the Escheatry (*ibid.* I. 238).

<sup>5</sup> The present writer must disclaim any special knowledge of the internal or external history of this famous survey, which has formed the subject of important studies by several

of the Domesday Survey more than one MS. of the existing Returns has been preserved and these are apparently connected with different stages in the compilation of the official Record and possibly also with distinct local interests.

In the first place, it will be observed that no contemporary or authentic specimens of the Writ and *Forma Inquisitionis* have been preserved in the case of the Domesday Survey itself. The issue of such a writ is easily assumed, whilst the "form of inquisition" would, as usual in this early period, have been deduced therefrom. References of this nature are to be found in nearly contemporary chronicles<sup>1</sup>, but in any case the precise formula of the existing Returns would enable us to reconstruct without much difficulty the "form of inquisition," contained either in a writ or schedule. Indeed, the diplomatic description of the Great Survey, which is given by mediaeval writers, refers more particularly to the actual Returns which are designated by various more or less unintelligent titles<sup>2</sup>. By some writers they are referred to as *Cartae* or *Cartulae* and by others as *Brevia*, terms which are apparently applied indifferently to the original Returns (now missing), to the Exchequer volumes, or to any particular passage thereof. To these titles may be added the still more general references to a *Scriptum*, *Rotulus* or *Liber*, which seem to apply to the existing official compilations. In one account, of which mention has previously been made<sup>3</sup>, the Returns presented to the Conqueror are termed an *Imbrevisatio* which was ordered to be copied *in uno volumine*. This mention of a single volume reappears in Higden's narrative which seems to have been derived from another source.

With regard to these Exchequer Returns, it is sufficient for our

distinguished scholars, to one of whom, Mr W. J. Corbett, he is indebted for friendly advice. The diplomatic theory propounded here is purely tentative and has only been hazarded because a reference to the subject could scarcely have been omitted.

<sup>1</sup> e.g. The *Anglo-Saxon Chronicle*, and the works of Florence of Worcester and Henry of Huntingdon. The most detailed and intelligent description of the probable procedure will be found in the anonymous Cotton MS. Vitellius, c. 8, fo. 15 b, edited by Professor Liebermann in *Ungedruckte Anglo-Normanische Geschichtsquellen*, pp. 15—24. For an apparently contemporary reference recently discovered by Mr W. H. Stevenson in a Bodleian MS. in the shape of a note by Robert, Bishop of Hereford, on the Chronology of Marianus Scotus, see *English Historical Review*, xxii. 72.

<sup>2</sup> *Anglo-Saxon Chronicle* (Rolls), i. 353; Flor. Worcester (ed. Howard), p. 449; Will. Malmesbury (*Gest. Reg.*), ii. 317; Hen. Huntingdon, p. 207; *Hoveden* (Rolls), i. 139; Rob. of Gloucester, ii. 552 sq.; Matt. Paris, *Chron. Majora*, ii. 18; Heming (ed. Hearne), i. 77, 288, 298; *Inquisitio Eliensis* (ed. Hamilton), p. 127; *Hist. Eliensis* (ed. Stewart), p. 228; *Red Book of the Exchequer* (Rolls), i. 14; J. de Oxenedes, p. 37; Higden, vii. 308.

<sup>3</sup> Cott. MS. Vitell. c. 8.



purpose to observe that the two volumes in which they are contained, appear to represent two distinct stages of official enrolment. In the larger volume the Returns for the Northern, Southern, Western and Midland counties, as far as they were surveyed, have been considerably abbreviated. They have also been arranged on a different plan, presumably for convenience of official reference; that is to say the royal and baronial manors have been sorted out from the surveys of the Hundreds and have been collected under individual fiefs, the future units of a new feudal taxation. In the smaller volume the Returns for the three Eastern counties have been arranged according to the same official method, but apparently in an unabbreviated form. Moreover, differences in the *Forma Inquisitionis* are here denoted, the significance of which will be presently referred to. The now famous *Inquisitio Cantabrigiensis*, which has survived in a 12th century transcript, has been usually regarded as reproducing the form and substance of the original Returns as recorded in the evidence of the jurors for every hundred. This theory, we have been told on the highest authority<sup>1</sup>, must be accepted with considerable reservations. In this version of the survey the Hundreds and vills are in their proper order and the general tokens of a royal inquest are preserved. It has a further textual value (which does not concern us here) and its evidence does not stand alone, for the same view of the inquisitorial procedure may be obtained from another 12th century transcript of local Returns known as the *Inquisitio Eliensis*.

The characteristics of this MS. and its relations both to the Exchequer volumes and the Cambridgeshire Returns have also been authoritatively discussed<sup>2</sup>. The importance which has been attached to this MS. is chiefly due to the accident of the preservation herein of the supposed *Forma Inquisitionis* of the Domesday survey itself. On the other hand, no real evidence is forthcoming to support this conjecture<sup>3</sup>. Indeed, we might consider that the *Forma Inquisitionis* in question was applicable to the procedure adopted in the three Eastern counties only, in view of certain peculiarities of the formula employed<sup>4</sup>. Again, we have to consider the possibility that this *Forma Inquisitionis* was utilized for a special inquisition of the holdings of the church of Ely

<sup>1</sup> For the whole subject see Mr J. H. Round's exhaustive and masterly criticism in *Feudal England*, pp. 1—146.

<sup>2</sup> *Ibid.*

<sup>3</sup> To Mr Round belongs the great credit of having been the first to question this assumption, and his researches have made it possible to regard this compilation in a new light.

<sup>4</sup> e.g. The threefold enumeration of the value.

authorized by a royal Writ which is still preserved<sup>1</sup>. Whether the inquest was really taken, or whether the Writ and *Forma Inquisitionis* afford another instance of the daring forgeries associated with this church, we cannot pause to discuss. It is at least certain that the Returns thus preserved, furnish an exceedingly intelligent local gloss upon the sources of the Exchequer survey. As a *Liber Terrarum*, or record of the church's possessions on the lines of the Great Survey, expounding incidentally certain obscure points in a favourable sense, this compilation may be the type of a large class of local muniments of which a few fragments only have survived.

The origin of the *Inquisitio Cantabrigiensis* is less easily conjectured. The compilation does not, as in the preceding instance, refer exclusively to the holdings of the church of Ely, and its connexion with that church has not been suggested. A collation of these two "satellites" with the Exchequer volume<sup>2</sup> will show that the Cambridgeshire inquest omits Crown lands in the nature of ancient demesne, although it has notoriously preserved a complete record of other holdings. The Ely inquest, on the other hand, consistently rejects external interests, and the impression has thus been given of an interested transcript of the original Returns. Possibly the motive of such a compilation may be found in its record of extensive claims advanced by the church of Ely to lands which had been invaded by encroaching neighbours<sup>3</sup>. Moreover, the church of Ely had a special interest in the distribution of the collective liability in respect of local wards and other customary services which are duly accorded in the survey. Finally, there are the textual discrepancies between the official and private versions which appear to be consistently favourable to the church<sup>4</sup>.

The above view of the Ely inquest as a special compilation in the interests of a local proprietor, with the analogy of the

<sup>1</sup> This writ (ed. Stewart, p. xxi) is a composite instrument in which three distinct subjects are referred to, and it must be regarded with considerable distrust on diplomatic grounds, though some such writ might well have been issued for this purpose.

<sup>2</sup> e.g. In the case of Soham, where I. C. C. gives a reference to the *Breve Regis* for details of the *Terra Regis*.

<sup>3</sup> To indicate the true holdings of grasping neighbours as a safeguard against still further encroachments was perhaps a work of more practical value than to append useless claims and protests.

<sup>4</sup> The Exchequer digest would inevitably suppress trivial details which might, however, appear of great importance to the injured party. Thus the latter has a particular relish for the word *abstulit*, though *sumpsit* is good enough for the Exchequer clerks. It was also expedient to suppress or ignore the open verdict (*nesciunt quomodo*) of jurors who had not the courage to call a spade a spade.

continental "briefs" already referred to, enables us to realize the significance of the formula *habet in brevi suo*. The scribes of the local Inquisitions will refer in these terms to the Exchequer version when they are not concerned to copy certain details of the Survey. Equally they can refer to their own *Breve* or *Abbreviatio* as a private copy. Thus the term may come to mean something like a counterpart, official or private, with variants emphasizing respective interests. The "Magister" of the royal *Scriptorium*, intent on his hides and capital fiefs, will ignore or condense local claims which the scribes of Ely (who have omitted the details of "ancient demesne") will carefully preserve, for these may some day be tested.

Of the remaining "satellites" of Domesday Book the *Liber Exoniæ*<sup>1</sup> has a special local interest, and possibly an official connexion with Winchester which is not unfortunately clearly indicated in the existing MS. The "Winton Book," apart from its curious inquest of burghal holdings, is of considerable diplomatic interest as preserving in a narrative form the substance of the originating writs and a *Forma Inquisitionis*. The Boldon Book on the other hand has a slighter resemblance to the official formula of the Exchequer survey and can by no means be regarded as a belated survey for the northern counties omitted from Domesday Book<sup>2</sup>. The series of diplomatic instruments connected with the position of the church of Worcester in the Great Survey<sup>3</sup> bear a strong resemblance to those already described in connexion with the church of Ely. We find the same grievance existing in respect of the invasion of church lands, and we notice the same resentful tone in the compiler's protest against these violations<sup>4</sup>. Here, again, the statement of claim in respect of these *Terrae ablatae* appears to be the motive for the interpolation of certain glosses on the Exchequer Record. It does not, however, appear from these notices that this church possessed a private version of the Worcestershire survey. The chief interest of such allusions is connected with the references to certain *Placita*<sup>5</sup>, which remind us of the Rochester and Ely cases, and to the description of the liberty of Oswaldslaw as

<sup>1</sup> See the suggestive and important essays by Mr Reichel and Mr Whale in *Trans. Devon Assoc.* 1895 and 1903.

<sup>2</sup> See above, p. 283 n.

<sup>3</sup> MS. Tib. A. 13 (ed. Hearne), ably dealt with by Mr J. H. Round in *Feudal England*.

<sup>4</sup> Cf. above, p. 187, and Hearne, pp. 248, 283, 285.

<sup>5</sup> Ed. Hearne, pp. 75—83, 269, 287, 298, 312. Cf. Bigelow, *Plac. Anglo-Norm.* The whole procedure is most lucidly described by Mr Round in *Domesday Studies*, II. 544 sq. (See below, p. 322.)

given in *autenticâ Regis cartula*, preserved in *thesauro regali cum totius Angliæ descriptionibus*. It is somewhat disappointing to find that this reference (more than once given) is merely to the Exchequer digest with the addition of a few clumsy interpolations intended to emphasize the *dictum* of the official record<sup>1</sup>. During the century which followed the making of the Great Survey we meet with several fragments of purely local inquisitions which appear to reproduce to some extent the same formula<sup>2</sup>. These fragments are probably the remains of a once numerous class of royal and private inquisitions taken with the object of ascertaining the extent of "hidage" within a certain district or holding and the corresponding liability for the payment of geld. This object will perhaps account for the difficulty of distinguishing between an actual survey and a mere hidage-book, which in some cases must have been "abbreviated" from a detailed inquisition. In one aspect, indeed, Domesday Book itself may be regarded as a *Liber Hidarum*<sup>3</sup> abbreviated, in its present form, from a mixed fiscal and agrarian inquest, for convenience of official reference, and abbreviated still further during the 12th century for use as a hidage-book and nothing more.

The "Breviates" of Domesday Book, which are still preserved<sup>4</sup>, offer this interesting fact for our further consideration. It will be evident that if these official or semi-official compilations can be traced far back into the 12th century we have here an explanation of the origin as well as of the purpose of some, at least, of the local "hidages" above referred to. That such a "Breviate" of Domesday Book existed in the 12th century may be inferred from the preservation of a local copy of that date. This was made apparently for Margam Abbey, a house founded by Robert of Gloucester in 1147<sup>5</sup>. Still earlier

<sup>1</sup> Cf. above and Hearne, pp. 77 and 283. The phrase *Descriptio* is not, however, necessarily confined to the original Returns now missing. The monkish interpolator is revealed by the phrase *nec aliquis regalis servitii exactor*.

<sup>2</sup> e.g. The Lindsay Survey (Claud, c. 5, ed. J. Greenstreet); the Leicester Survey (Exchequer K. R. Knight's Fees  $\frac{1}{2}$ , *F. E.* p. 196); the Northampton Survey (Vesp. E. 22, fo. 94, *F. E.* p. 215); and the Worcester Survey (ed. Hearne, pp. 298, 313). These have all been learnedly described by Mr J. H. Round in *Feudal England*.

<sup>3</sup> *Red Book*, p. 4.

<sup>4</sup> For a full account of these see *Athenæum*, 15 Sept. 1900, and W. de G. Birch in *Domesday Studies*, Vol. II. p. 500 sq. The date of the "Breviate" connected with the Chamberlains' department in the Treasury of the Receipt may be assigned from the character of the writing and illuminations to the early part of the reign of Edward I or possibly slightly earlier. The companion volume, however, held by the King's Remembrancer, appears to be of a considerably earlier date, probably of the first years of the 13th century. This volume curiously enough contains several notices of Welsh affairs on the fly-leaves.

<sup>5</sup> This "Breviate" is now preserved in the Arundel collection (No. 153), but formerly belonged to the Abbey. The writing has been positively assigned to the 12th century by



allusions to an Exchequer "Breviate" may be found in connexion with single copies of the possessions of certain churches made at the end of the 11th or beginning of the 12th century. Of these, the well-known reference in the Worcester cartulary to the Exchequer Domesday as the exemplar of the list of the churches possessions proves to be to the text of the existing "Breviates<sup>1</sup>." It is, however, conceivable, though scarcely probable, that the compilers of the Exchequer "Breviate" and of this local excerpt both made an abstract from Domesday Book itself in identical terms. On the other hand, the Worcester cartulary contains a still briefer abstract, which is evidently home-made<sup>2</sup>, and the same remark applies to another very early abbreviation of the holding of the church of Burton *sic[ut] continetur super Domesday apud Wintoniam*<sup>3</sup>. In the *Liber Eliensis* there is more than one brief hidage list, amounting indeed to little more than tables of hidation, which are given here *secundum brevia regia quae facta sunt in vicecomitatibus*<sup>4</sup>.

Thus it is possible that the manufacture and use of "Breviates" on a very similar plan was pursued both by royal clerks and local scribes throughout the 12th and 13th centuries. Moreover, the practice may have existed even earlier, for the famous "Geld Inquest<sup>5</sup>," on which the Domesday Survey itself was presumably based, is really a hidage-book, whilst the fragment of a geld-roll for Northamptonshire<sup>6</sup> which has been dated several years before the Great Survey is actually composed in the vernacular<sup>7</sup>.

official experts. From the fact that the Eastern counties are omitted, coupled with other imperfections, we may perhaps assume that it was a copy of the Exchequer "Breviate" made for local use. The official connexion of the founder of this church with the royal Exchequer is well known (*Dialogus*, I. xi; Birch, *Hist. of Margam*, ch. 5).

<sup>1</sup> MS. Tib. A. 13 (ed. Hearne, p. 298). This passage, however, is not in Heming's original compilation, but in the 12th century continuation. The reference is given as *secundum cartam Regis quae est in thesauro Regis*.

<sup>2</sup> *Feudal England*, p. 169.

<sup>3</sup> This does not appear to have been made from an Exchequer "Breviate." This Burton "Breviate" was apparently first entered on the dorse of a charter of Ethelred II (*Ordinance Facs*, Part III.), and the writing has been regarded as being of the 11th century (Salt Society *Trans.* v. (i), p. 3 n.). It is certainly a compilation not later than the earliest years of the 12th century, and was apparently derived from another official text of the Domesday Survey than the Exchequer volume which it corrects in more than one particular.

<sup>4</sup> *Liber Eliensis* (ed. Hamilton), pp. 168, 174, 184.

<sup>5</sup> *Domesday Book* (Record Commission), IV. 1-26.

<sup>6</sup> Ellis, *Intro. to Domesday*, I. 184; Round, *Feudal England*, p. 215. The formula of this "Breviate" has a slight resemblance to that found in the Burton compilation. Whether the well-known *Numerus Hidarum* found in Old English law-books has any connexion with this fiscal system is a question that cannot be discussed here.

<sup>7</sup> See Mr Round in *Feudal England*, p. 147 sq.

Such lists as these point back to the first institution of the Danegeld, though in their later aspect they were no longer associated with an actual assessment<sup>1</sup>, but served as a check upon the new devices of imperial and local taxation which had taken the place of the ancient geld<sup>2</sup>.

With the last years of the 12th century a slight but eventful modification was made in this conventional system of fiscal valuation. The unit of assessment is now the plough, or plough-land, instead of the hide, which, however, is still used as a convertible symbol and is apparently retained for the purpose of local taxation<sup>3</sup>. With the institutional aspects of this plough-tax<sup>4</sup> we are not here concerned, but it will afford an interesting diplomatic comparison with the earlier geld inquests.

From the description of the procedure employed in connexion with the revision of the judicial eyres in 1194<sup>5</sup> and the collection of the great carucage of 1198<sup>6</sup> we notice at once that the term *imbreviare* was applied to the record of the verdicts of the local jurors prepared for official information, just as it is used in a local "breviate" of the Great Survey<sup>7</sup>.

From the historiographer's description of the carucage of 1198 we obtain a suggestive parallel to the procedure of the earlier surveys. Here, for the purpose of levying an equivalent tax to the old Danegeld on every hide or carucate, commissioners and assessors were appointed for every county to co-operate with the sheriff, local officers and jurors in accordance with precise instructions contained in a *Forma Inquisitionis*. The verdicts found were committed to writing (*in scriptum redigebantur*), a copy (*rotulus*) being prepared for each of the commissioners, whilst a third was compiled by the sheriff, and a fourth was apparently preserved by the representatives of local magnates<sup>8</sup>. In the case of serjeanties, moreover, a very similar procedure was

<sup>1</sup> Possibly, however, the lost "Danegeld Roll," which was in use at the Exchequer in the reign of Henry I may have been based upon the official "Breviate." Some attempt must also have been made to revise the existing hidation from time to time, and this may have been the origin of some of the local hidage-lists above referred to. For example, the Lindsey survey is written upon rolls of the Exchequer pattern and in what appears to be an official hand.

<sup>2</sup> Cf. *Dialogus*, I. xi, and below in the following pages.

<sup>3</sup> Cf. below, p. 299. Examples of the use of "hidage" as a general term will be found in monastic and even in official compilations, cf. *Cart. Rames* (Rolls), *passim*, and *Red Book*, fos. 29<sup>d</sup> and 180.

<sup>4</sup> Cf. J. H. Round and Miss K. Norgate in *E. H. R.* III, 501 and 702 and IV, 105.

<sup>5</sup> *Hoveden* (Rolls), III, 262—267.

<sup>6</sup> *Ibid.* IV, 46.

<sup>7</sup> *Inq. Eliens.* (ed. Hamilton), p. 168. *Hic imbreviatur quot caruæ Sancta Aedeldreda habet et quot habent ejus homines secundum brevia Regis quæ facta sunt in vicecomitatibus.* This abstract, however, might be regarded as a hidage-list rather than a "Breviate."

<sup>8</sup> This reminds us of the possession of a *breve* of the Ely inquest by the abbot's *legatus*.

adopted. The extent and value of the holdings were to be returned into the Exchequer and this Return is termed an *imbrevisatio*. Fragments of the Returns made to the inquest of 1198 have fortunately been preserved in the collection known as *Testa de Nevill*<sup>1</sup>, whilst another version is preserved in at least one case which formed the subject of proceedings in the King's Court<sup>2</sup>.

In the later carucates of the years 1220 and 1224 the diplomatic procedure is still more clearly defined. Here there is a royal Writ which combines a precept with a *Forma Inquisitionis*<sup>3</sup>. It should be noticed, however, that the Returns in this, as in many other instances under the new system of taxation, take the form of accounts instead of that of verdicts<sup>4</sup>.

The inquisitions on the basis of the hide and plough described above are connected with the fiscal business of the kingdom. Besides these, the same plan of assessment was employed for an obscure system of local taxation which is indicated by a few fragmentary Returns dating from the latter part of the 12th century<sup>5</sup>. In one aspect these local assessments are of communal or even of seignorial interest; but in another they may be regarded as a distinct source of royal revenue and one that has survived in a direct descent to modern times<sup>6</sup>. The local assessments referred to are connected with the collection of the "Sheriff's Aid" and court-fines or rents paid in respect of commuted suits of court. These and similar liabilities were assessed upon the basis of the hide, following the system of the geld assessment<sup>7</sup>. We know from the evidence of the Exchequer precedent-books and inquisitions, as well as from the extensive proceedings on writs of *Quo Warranto* during the Edwardian period, that from the close of the 12th century the Crown was prepared to assert its claims to local contributions and compositions which had been allowed to swell the Sheriff's perquisites or had become attached

<sup>1</sup> Cf. p. 72<sup>b</sup> (Record Commission). The existence of these interesting Returns was discovered by Mr J. H. Round, who has given a valuable account of the procedure of the Inquest of 1198 in *E. H. R.* III. 501.

<sup>2</sup> *Rot. Cur. Reg.* (Record Com.), p. 216, and J. H. Round in *E. H. R. loc. cit.*

<sup>3</sup> *Rot. Claus.* I. 437.

<sup>4</sup> *Testa de Nevill*, p. 131<sup>b</sup>.

<sup>5</sup> Cf. *Red Book*, II. 774. Specimens of such fragments will be found in Exchequer Records under the following references: Accounts (K. R.) 5<sup>o</sup> 1<sup>o</sup> 2<sup>o</sup>, Miscellanea 3<sup>o</sup> 1<sup>o</sup> 2<sup>o</sup> and L. T. R. Misc. Rolls 3<sup>o</sup>. It is possible that these incidents have a good deal to do with the struggle over the encroachments of private franchises in the 13th century. The commutations of the liabilities of certain districts to suit and service in the sheriffs' courts may be traced in the Pipe Rolls down to the 19th century.

<sup>6</sup> Cf. the modern records of the Land Revenue Office under the head of "Viscontiel Rents."

<sup>7</sup> *Dialogus*, I. xi.

to some encroaching franchise by collusion<sup>1</sup>. The suits or rents that were thus "withdrawn" and in turn "recovered" by the Crown from an ordinary subject-matter of the ministerial proceedings by way of Inquisition and Returns during the 13th century.

Long before the final disappearance of the fiscal system represented by the hidages and carucages of the 12th century a new one was in course of skilful preparation. The institution of Scutage was not merely an addition to the existing sources of revenue. It marks the beginning of a new method of assessment on the basis of the knight's fee which prevailed for another century. This resembles in its main features the geld inquest of an earlier period<sup>2</sup>, and here again we find the three-fold procedure represented by the Writ, Form of Inquisition, and Returns. The earliest specimens of this class are certainly imperfect, but as early as the reign of Henry II we are able to reconstruct the normal diplomatic process<sup>3</sup>. It would appear that in the case of the personal Returns made by military tenants a Form of Inquisition could be dispensed with, the procedure enjoined being categorically stated in the Writ and duly recited in the Return<sup>4</sup>. In the case of a general inquisition made by local juries the Form of Inquisition may have been more distinctly indicated, but the Writs and "certificates" or other Returns connected with the earliest military inquests are rarely preserved, and the existing Record takes the form of a schedule of assessments closely resembling a *Compotus*<sup>5</sup>. In a later period the Writ itself is preserved in the Chancery enrolments, the Returns being preserved for official reference in a precedent book. The Form of Inquisition, recited from the Writ, is also occasionally given as a heading to the Return<sup>6</sup>.

<sup>1</sup> Besides the copious pleadings connected with the ministerial inquisitions above referred to, the vigilant interest of the Crown herein is seen in many cases which were recorded in the Chancery during the 14th and 15th centuries. Many of these "records" are still preserved amongst the Miscellanea of the Chancery.

<sup>2</sup> A transition may be seen in the Peterborough Survey (*temp.* Hen. I), in which the number of the knights is appended to the extent of hides and virgates.

<sup>3</sup> This has been indicated in the case of the 1166 returns by Bishop Stubbs and Mr J. H. Round.

<sup>4</sup> Personal returns by local officers were also made in the Chancery in connexion with summonses for military service as late as the reign of Edward III.

<sup>5</sup> The formula of the Writ and Return for the marriage aid of 1235 seems to have been closely modelled on that of 1166 and 1212 (cf. *Testa*, II. 749). The form of a *compotus* is seen in the Aid of 1346 (K. R. *Miscellaneous Book*, No. 3).

<sup>6</sup> Cf. *Feudal Aids* (Rolls), *passim*. Variants are found in the case of the "Scutage" and "Marshalsea" rolls (S. R. Scargill-Bird in *Genealogist*, I. 65). Specimens of the original Returns from which the official precedent books were compiled are preserved between 1166 and 1431. For the composition of these official lists see *Red Book* Vol. II. (Preface), and the Rolls edition of *Feudal Aids* (Preface).



The system of fiscal assessment based on the knight's fee was mainly applicable to a single class, and for this special purpose it was utilized down to the reign of Edward III. Long before this date, however, the commutation of military service for a conventional payment had given rise to new expedients for imperial taxation.

As early as the reign of Henry II an equivalent levy in lieu of scutage was made upon the non-military classes in the shape of a *Donum*, *Auxilium* or *Tallagium*, contributed by the knight's fee, or distributed upon the village or burgage holdings. Later still we find assessments calculated in convertible terms of the knight's fee or the hide, each of these in turn being approximated to a statement of liability in terms of pounds, shillings and pence or even of marcs. Before the close of the 13th century the normal holding of a tenant by knight's service is officially computed by librates<sup>1</sup> alone, and this method prevailed down to the 17th century.

The formula of valuation employed in the earliest general Aids of the 13th century would seem to have been partly connected with the librate valuation and in part again with the tithe custom of immemorial antiquity. The latter connexion may be traced in the series of ecclesiastical assessments from the "Saladin Tithe" of 1189 to the *Valor Ecclesiasticus* of 1535. The former is seen in the general Aids levied from the beginning of the 13th century. Thus, for the Aid of 1207 an assessment was made at the rate of 12*d.* on each marcate of property, and this is commonly regarded as a Thirteenth<sup>2</sup>. On other occasions any percentage from a Fourth to a Fortieth might be called for<sup>3</sup>, but the system of the librate, which was applicable equally to real and personal property, finally prevailed, whether as a levy of so many shillings in the pound by way of a land-tax or as an *ad valorem* duty on commodities.

The diplomatic construction of these assessments does not differ from that of the earlier fiscal inquisitions except that, the consent of the Council or Parliament being now assumed, the royal precept may practically be regarded as a "writ in aid" of the sheriff for the purpose of collection<sup>4</sup>. The *Forma Inquisitionis*, however, is set out with careful details, including even the oath to be taken by the jurors, and instructions for sealing the Returns and safeguarding the treasure collected<sup>5</sup>.

<sup>1</sup> K. R. Knight's Service Bdle 1 and Miscellanea of the Chancery Bdle 1.

<sup>2</sup> *Rot. Litt. Pat.* 1. 72, *Ann. Waverley* (Rolls), p. 258.

<sup>3</sup> Stubbs *C. H.* and *S. C. passim*.

<sup>4</sup> Cf. *Pat.* 3 Hen. IV, m. 23.

<sup>5</sup> Cf. *Pat.* 25 Edw. I, Pt 2, m. 3 (*in cedula*). In later times the Form of Inquisition may take the shape of a permanent official precedent book, such as the Book of Rates for levying Customs duties.

The Returns in question naturally resemble accounts in their general construction, but in many cases they revert to the form of the agrarian survey<sup>1</sup>. They have a further interest from the fact that the original assessments appear frequently to have served as taxing lists which were examined and checked by another set of assessors, something after the manner of the estreats of amerciements returned to the Exchequer<sup>2</sup>.

### (c) Feudal Inquisitions.

A large group of miscellaneous Inquisitions will be found holding a somewhat anomalous position half-way between Agrarian Surveys and Fiscal Inquisitions, and Assessments and the Political or Judicial Inquisitions, which have distinct characteristics of their own.

The class referred to is composed of the more purely feudal inquisitions connected with such matters as serjeanties, wardships, escheats, assarts, qualifications for knighthood, inquests of lunacy, and proceedings *Ad Quod Dampnum*. It is true that several of these have an agrarian or fiscal character<sup>3</sup>, but a distinction may conveniently be made between the instruments which concern the royal prerogative or feudal droits of the Crown and those which have a special fiscal interest<sup>4</sup>. Moreover, although these feudal interests are recognized in several Edwardian statutes and royal inquisitions, we should find that for the most part escheats, alienations, purprestures and the rest, are usually the subjects of an inquisition *sui generis*.

The diplomatic construction of these instruments is liable to considerable variation. Thus, the 12th century inquisition of widows and wards, known as the *Rotuli de Dominabus*, touches on both agrarian and fiscal matters, its real object being to ascertain the rights of the Crown in respect of feudal wardships and marriages<sup>5</sup>. No Writ or

<sup>1</sup> Cf. Pat. 24 Edw. I, m. 22. The *Taxatio* of 1291 and *Valor* of 1535 may be regarded, in one aspect, as clerical extents like the "Parliamentary Surveys" of the Commonwealth. The Returns, in the form of Indentures, to the *Inquisitiones Nonarum* in 1316, refer only, like the subsidy assessments, to a valuation *ad hoc*, though this is of an agrarian nature.

<sup>2</sup> Cf. *Feudal Aids*, *passim*. Specimens of these judicial amerciements will be found in the Exchequer Accounts.

<sup>3</sup> e.g. *Rotuli de Dominabus*, and many of the "Extents" formerly included amongst the Inquisitions *post mortem*.

<sup>4</sup> Cf. the "*Rotulus de escaetis, viduis, valettis et castellariis*" for Norfolk amongst the unprinted Hundred Rolls (No. 13).

<sup>5</sup> Ed. Grimaldi, above. The agrarian and fiscal surveys of an earlier period are recalled by the use of the verbs *valeo* and *possum* and the enumeration of the stock. On the other hand the personal descriptions resemble those found in the Exchequer Feodaries and Accounts (cf. *Testa de Nevill*, *passim*, and "Receipt Roll of the Exchequer" (1185), p. 22).

Form of Inquisition of this interesting record has been preserved, but these could without much difficulty be reconstructed from the original Returns.

In the next century we find inquests *de valettis et puellis...de custodia domini Regis*, forming part of the regular proceedings of the eyre, and in the same connexion we have a judicial supervision of escheats and serjeanties. Moreover, these proceedings seem to have formed part of a considerable collection, fragments of which are still preserved<sup>1</sup>.

The periodical "Regards" of the royal forests constitute a distinct type of feudal inquisition, being obviously of a technical nature. The conventional visitations must, however, be distinguished from the special inquisitions of forest jurisdictions such as those held in connexion with the charter of 1217 and its later confirmations<sup>2</sup>. These must have been taken on an extensive scale, but for the most part only the Writs and the subsequent pleadings appear to have survived<sup>3</sup>.

Inquisitions *Ad quod dampnum*, which might also be regarded as remedial measures, derive their feudal character from a typical exercise of the royal prerogative<sup>4</sup>. The same view will perhaps be taken of inquests *De lunaticis*. In another direction the feudal rights of the Crown furnish us with one of the largest and most important classes of ministerial Records. The familiar Inquisition *Post Mortem* is the chief representative of this class, which includes, besides proceedings under the writ *Utrum sit escaeta nostra*<sup>5</sup>, a large number of miscellaneous extents which are frequently of an agrarian nature<sup>6</sup>. The wide scope of these feudal inquisitions will be seen from the

<sup>1</sup> Cf. *Testa de Nevill*, pp. 270 and 390<sup>b</sup>. An interesting description of a still earlier Return of feudal Reliefs is given in *Feudal England*, p. 308, from the Worcester cartulary (ed. Hearne, i. 79). This is actually in a diplomatic form, but its authenticity must be accepted with considerable reserve.

<sup>2</sup> An excellent description of these will be found in Mr Turner's learned Introduction to the edition of *Select Pleas of the Forests* issued by the Selden Society. For the inquisitions or perambulations connected with Disafforestations, see below, p. 298.

<sup>3</sup> For the great inquest of 1244 see Matt. Paris (Rolls) iv. 400. A fragment of pleadings hereon is perhaps preserved in the L. T. R. Miscellanea  $\frac{1}{2}$ . Offences against the property of owners of parks and chaces (cf. *Pleas of the Forest*, p. xcii sq.) formed a subject of enquiry in the judicial eyres. For the proceedings in 1218, see Pat. 18 John, m. 2 and *Pleas of the Forest*, p. xciv.

<sup>4</sup> Cf. *Dialogus*, II. x on the subject of Purprestures and the printed *List of Inquisitions ad quod dampnum*.

<sup>5</sup> Cf. Bracton, II. 345.

<sup>6</sup> Cf. "Ancient Extents" and "Chancery Miscellaneous Inquisitions," *passim*. These relate to manorial stock, repairs, serjeanties, tolls, customs, fisheries, warren and other profits or rights of the Crown.

"Ordinances of the Escheatry," preserved in several collections<sup>1</sup>, whilst the directions for extending lands which may be found in both official and private precedent books may be compared with the hidage-lists connected with several aspects of fiscal assessment.

The diplomatic procedure observed in these feudal extents is clearly defined. The Writ *ad inquirendum* is usually preserved with the Return, and it is also recited, almost *verbatim*, in the heading of the latter<sup>2</sup>, a separate Form of Inquisition being unnecessary in the case of mere escheats. The statutory Articles<sup>3</sup> administered to the jurors for the purpose of manorial Extents may indeed have been appended to the Writ as a separate schedule; but they are probably more or less conventional. Their occurrence in various precedent books is, however, authenticated, and constitutes a link between these Feudal Inquisitions and those of a statutory or political nature, whilst the relationship of both to the judicial inquisitions recorded in the Eyre Rolls will be presently referred to.

#### (d) Statutory and Political Inquisitions.

Although the Domesday Survey itself might easily be regarded as a political measure, the statutory inquisitions of the 12th and 13th centuries possess certain well-marked characteristics which are only faintly indicated in earlier records. Thus, besides the usual procedure denoted by the presence of a Writ, a Form of Inquisition and voluminous Returns, recording the verdicts of local juries, two further stages of institutional development may be frequently observed. These are the Pleadings consequent on the aforesaid verdicts and the Accounts of profits accruing to the Crown, whether from fiscal assessments or political delinquencies. These Pleadings and Accounts must be classified according to their diplomatic construction<sup>4</sup>, but their connexion with these "Ministerial Proceedings" will be found instructive.

Already the mixed agrarian and fiscal inquests of the Norman period have reminded us of the early activities of royal Justices in Eyre and Exchequer Barons. The nature of the political inquisitions of the 12th century is, however, clearly indicated by the existing articles of enquiry, although the inquisitional procedure may not have

<sup>1</sup> Cf. *Statutes of the Realm*, 1. 238; *Annals of Burton* (Rolls), p. 479, &c.

<sup>2</sup> The writ *Ad inquirendum* contains the precept *diligenter inquireas*. In the writ *Ad extendendum* a wider scope of enquiry may be indicated by the formula *diligenter extendi facias quantum, &c. valeat, &c. et qualiter, &c. plus valere poterit adopus nostrum*. In some cases the Return is in an epistolary form and in others the royal writ is recited *in haec verba*.

<sup>3</sup> Cf. n. 4 *supra*.

<sup>4</sup> *i.e.* under "Judicial Proceedings" and "Accounts" respectively.



differed from that employed for fiscal or purely judicial purposes. Moreover, the scope of the enquiry will appear strictly limited when compared with the very miscellaneous and speculative articles administered during the latter half of the 13th century<sup>1</sup>.

Probably the earliest existing record of a political inquisition dates only from the year 1170. This is the well-known "Inquest of Sheriffs," of which the *Forma Inquisitionis* alone is preserved<sup>2</sup>, though several fragments of the original Returns have been identified amongst the miscellaneous Records of the Exchequer<sup>3</sup>. If this identification is correct, the Returns in question throw little light on the official procedure. It would appear, however, that the Inquisition was not made, as usual, by hundreds and vills, but by baronies and vills<sup>4</sup>, and that the Returns of each vill to individual articles of enquiry were separately entered on loose pieces of parchment, an unusual method of "imbreuation"<sup>5</sup>. In a few cases "hearing notes" are appended to the Returns<sup>6</sup>.

The articles of enquiry connected with the Assize of Arms of 1181 have been preserved by contemporary historians<sup>7</sup>, but in this case no single fragment of the Returns has survived, though their general character may be easily realized from the well-known Muster Rolls of a later period<sup>8</sup>.

The same deficiency exists in respect of the Assize of the Forest in 1184<sup>9</sup> whereby Assarts were to be "imbreuated" at regular intervals, but perhaps this may refer to the "Regards," which form an incident of purely feudal interest.

An important inquisition as to the malpractices of royal ministers in the year 1196 may have fallen through owing to the sudden death of one of the two commissioners<sup>10</sup>. In any case no record of this enquiry has been preserved. Again, following King John's submission to the Pope in 1213 a general inquisition seems to have been ordered for the purpose of ascertaining the losses suffered by the Church<sup>11</sup>, and this information may have been utilized by contemporary antiquaries for statistical purposes<sup>12</sup>. A local inquisition of the year

<sup>1</sup> Below, p. 318.

<sup>2</sup> Stubbs, *S. C.* 148.

<sup>3</sup> These have been printed in the *Red Book*, p. cclxvii sq. where another origin has been suggested for them in connexion with a local inquest relating to military service, a suggestion, however, which has not been generally accepted.

<sup>4</sup> These baronies were separately filed.

<sup>5</sup> Cf. Hoveden (Rolls), III. 262 sq.

<sup>6</sup> Below, p. 323.

<sup>7</sup> Ben. Abbas. (Rolls), I. 278.

<sup>8</sup> Cf. S. R. Scargill-Bird in *Genealogist*, I. 65.

<sup>9</sup> Ben. Abbas, II. clxi. G. J. Turner, *Select Pleas of the Forest* (Selden Society), p. lxxvii.

<sup>10</sup> Hoveden, IV. 5.

<sup>11</sup> M. Paris, *Chron. Major*, II. 569.

<sup>12</sup> Cf. *Red Book*, p. 772.

1212<sup>1</sup> may have been really of a fiscal nature, but four years later the general inquisition concerning forests and rivers promised by the Great Charter seems to have been held, though our information on this point is very scanty<sup>2</sup>.

The frequent use of Inquisitions for fiscal purposes during the reign of Henry III has been already referred to<sup>3</sup>. From the chaotic state of the Returns made to these fiscal Inquisitions it would not be surprising if the Records of other enquiries of a political nature had also disappeared. This, at least, has been the fate of the Inquisition concerning the Forests in 1244<sup>4</sup>, whilst of the important political inquisitions which are recorded during the last twenty years of this reign two only are preserved to us in an imperfect form<sup>5</sup>.

It has been already observed that in the case of the political inquisitions of the Edwardian period considerable difficulty will be found in distinguishing between inquisitions of an administrative and those of a purely judicial nature. This is scarcely surprising when we remember that the form of these conventional articles was constantly paraphrased by official scribes. Moreover, the procedure which they indicate was inspired by an official policy subject to frequent variations. We have also seen in the case of the fiscal and feudal inquisitions of the latter part of the 12th century that attention is chiefly given to the due valuation of the plough-land or plough-team<sup>6</sup>. A little later the fiscal interests of the Crown are centered in the Knight's fee and the Serjeanty<sup>7</sup>, whilst the liabilities of non-military tenants, and the capabilities of churchmen, Jews and merchants have become subjects for special consideration<sup>8</sup>. Thus, it has come to pass that Matthew Paris, writing in the year 1254, can inveigh against the "unheard of writ, issued by the Chancery of our lord the King"—for inquisition to be made by the reve and four men concerning the plough-teams in every manor of the Religious, after the form of other days<sup>9</sup>.

<sup>1</sup> Pat. 14 John, m. 2.

<sup>2</sup> Pat. Rolls (Record Commission), I. 180, cf. *Select Pleas of the Forest* (Selden Soc.), *loc. cit.* and McKechnie, *Magna Carta*, p. 482 sq.

<sup>3</sup> Above, p. 294.

<sup>4</sup> Cf. above, p. 296.

<sup>5</sup> *i.e.* those of 1255 (printed in the "Hundred Rolls"), and 1266.

<sup>6</sup> Above, p. 293.

<sup>7</sup> *Ibid.*

<sup>8</sup> Cf. the *Vetera Capitula Itineris* cited below and the documents given in Stubbs, *S. C.* for the first half of the 13th century.

<sup>9</sup> The writ given by M. Paris (v. 464) is not found in the Chancery enrolments, but those are imperfect for the period and the King was in Gascony at this date (13 Oct. 1254). Some light is thrown on the matter by a Gascon writ dated 9 October 1254 (*Rôles Gascons*, ed. Michel, No. 3727), addressed to the official of the Archbishop of Canterbury requiring him to make inquisition as to the exact value of all the benefices of England (cf. M. Paris, vi.

But it is not the carucage only that has become archaic whilst Paris and Bracton are still at work. In this same year (1254) we seem to see the beginnings of a new form of inquisition which is destined to play an important part in later constitutional developments.

What has happened is unconsciously explained by the monastic chroniclers themselves. Thus the Burton annalist has recorded, under the year 1254<sup>1</sup>, the form of a certain inquisition taken before the itinerant justices at Lichfield, and the text thus incidentally preserved and dated is found to agree with the conventional form of the *Vetera Capitula Itineris* as set forth in Bracton<sup>2</sup> and in the *Statutes of the Realm*<sup>3</sup>. It is true that the conventional form of the "Old Chapters of the Eyre" which has been handed down from the age of Glanvill to that of Bracton, can scarcely be stated with any degree of precision. The same may be said of the "New Chapters of the Eyre" which should be better known to us in connexion with the Hundred<sup>4</sup> and *Quo Warranto* rolls and which are also preserved in a conventional form<sup>5</sup>, but it is improbable that the "New Chapters" were evolved directly from the "Old Chapters," and therefore some intermediate type of inquisition must be looked for<sup>6</sup>.

This transitional form is possibly recorded by the *Annals of Burton*, in connexion with an extensive enquiry made before the

298). For the papal grant of a Tenth for the Crusade made in 1252 (*Foedera*, I. 272—274) and vigorously opposed by the English clergy, cf. *Ann. Burton*, 350 sq. and 360 sq. and M. Paris, v. 324 sq. For the whole subject see Miss R. Graham in *Transactions R. Hist. Soc.* xviii, and *E. H. R.*, July, 1908, cf. Rev. W. Hudson in *Norwich Arch. Soc. Trans.* (1908). The form of the "Norwich Taxation" of 1254—56 as preserved in local lists (cf. *Ann. Burton*, pp. 327 and 366, Cotton MSS. Claud. D. xi (Malton) and Harl. 1005 (Bury)) shows no traces of an inquest of ploughs (cf. *Ann. Burton*, p. 357). But these *valores* obviously omit agrarian details such as are occasionally preserved in the Taxation of 1291.

<sup>1</sup> *Annals of Burton* (Rolls), p. 330.

<sup>2</sup> Rolls, ed. II. 240, cf. *Select Pleas of the Crown* (Selden Soc.), p. xxiii where Professor Maitland has given the pedigree of these articles. A version preserved in the Gloucester cartulary (II. 276) seems to be of the same date. For the form adapted for a civic inquisition, cf. *Liber Albus*, I. 72, and Add. Charter 5153, which appears to be of the date 1276.

<sup>3</sup> I. 233.

<sup>4</sup> Record ed. Vol. I. p. 13.

<sup>5</sup> Bracton, II. Appx. i. *Stat. Realm* I. 235.

<sup>6</sup> It would probably be found a matter of some difficulty to prove that the conventional chapters of the Eyre as we find them stated in 1254 were habitually supplemented by the new inquisitorial articles of 1255. Probably it would be safer to suggest that the latter were utilised side by side with the former during the Eyres protracted between 1255 and 1257 and that they were succeeded by further special inquisitions administered by the itinerant justices between 1258 and 1266 being finally replaced by a conventional series of "New Chapters" in 1274 which also have their origin in a special Inquisition. It is only when the pleadings upon the Hundred Rolls draw to a close that the Old and New Chapters assume the stereotyped juxtaposition which is such a familiar feature of the Rolls and law-books of the first half of the 14th century (cf. below, pp. 303 and 318).

justices at Stafford in the year 1255<sup>1</sup>, the political character of which may be shrewdly suspected. Here the resistance of the church to the collection of the new papal tithe is punished by inquisitorial articles which led to the protests of the clergy in the Synods of London and Merton<sup>2</sup>. For the baronage and landed gentry there is reserved a strictly legal but highly disagreeable process of proprietary rectification at the hands of officious jurors. Even the traders are to be reminded by a sweeping inquest of measures<sup>3</sup> that they cannot count on the protection of local franchises. Such sharp dealings with the privileged classes would be generally approved, and to conciliate the new commercial interest, Jews and foreigners were sacrificed in turn. Finally, in 1259, popular attention was diverted towards public and private wrongs suffered at the hands of unjust ministers. Ample facilities were to be afforded for the hearing of *Querelæ* and the country, as we know, was glutted with vengeance on its oppressors<sup>4</sup>. It is true that along with these *Querelæ* were certain *Gravamina* which reflected severely on the royal methods of government, but these matters could scarcely be thrashed out by local jurors<sup>5</sup>.

Of the political inquisitions here alluded to, that of the year 1255 alone has been preserved to us, although the procedure for the great inquisition of 1258, continued in the next year, is known to us through the Provisions of Oxford and Westminster<sup>6</sup>. It is interesting to learn that the original Returns on this occasion were formerly preserved in the royal Treasury in a chest bearing the distinctive press-mark "Inquisitiones<sup>7</sup>."

The inquisition of 1255 does not need the authentication of a contemporary chronicler. The Writ directing its execution is enrolled<sup>8</sup>, and the Form of Inquisition has been separately preserved<sup>9</sup>. Finally, a considerable portion of the Returns has been transcribed in an official

<sup>1</sup> *Ann. Burton*, p. 337. There is nothing in the few surviving Returns for Stafford to illustrate the assertion that the commissioners conducted this enquiry with marked harshness.

<sup>2</sup> Wilkins, *Concilia* (1257), I. 723; *Ann. Burton*, pp. 419—420. The articles chiefly complained of in these conferences can be identified in the *capitula* of 1255.

<sup>3</sup> *Ann. Burton* (1256), p. 375; *M. Paris*, v. 595.

<sup>4</sup> *M. Paris*, v. 714, 720; vi. 396—7. *Flores. Hist.* pp. 426, 437 and the Assize Rolls for the period.

<sup>5</sup> *Ann. Burton*, *sub anno*.

<sup>6</sup> Cf. *Ann. Burton*, pp. 446—456, *M. Paris*, vi. p. 215, *Foedera*, I. 375 and 381, *Pat. 42 Hen. III*, m. 2, and 43 *Hen. III*, m. 10, and Close Roll, 44 *Hen. III*, m. 18<sup>a</sup>.

<sup>7</sup> Palgrave, *Kalendars*, I. 9.

<sup>8</sup> *Pat. 39 Hen. III*, m. 9<sup>d</sup>.

<sup>9</sup> *Ann. Burton*, p. 330 and Hundred Rolls (Record Commission) *passim*. Interesting variants may be found in the latter source.



collection and is actually in print<sup>1</sup>. It is surprising, therefore, that no attempt has yet been made to assign these instruments to their proper place in the sequence of constitutional events which overflow into the reign of statute law. For if the position assigned here to the inquisition of 1255 is correct, it follows that the famous records known to us as the Hundred Rolls and the pleadings in *Quo Warranto* and "Rageman," together with the proceedings connected with some miscellaneous *Quereles*, must be ultimately derived from this prolific source. Again, it will be evident that these administrative and remedial measures are associated with a string of enactments extending from the Statute of Merton in 1236 to the Statute of Gloucester in 1278.

As in the case of the reputed "Hundred Rolls" of 1255, the diplomatic construction of the true Records forming this collection has been well preserved. The royal Writ is entered on the Patent Roll<sup>2</sup> with a schedule of Articles which are better known to us as the "New Chapters of the Eyre" before referred to. The Returns to these Articles are, however, only partially preserved, though this does not affect our knowledge of the procedure employed<sup>3</sup>.

One point, however, remains in some obscurity. References occur in the body of these Returns to a separate inquisition *De ministris* and to Articles of enquiry with corresponding verdicts presented and returned in distinct Rolls<sup>4</sup>. But in the Writ itself which called forth the proceedings taken in 1274 provision is made for an enquiry into the conduct of royal ministers, and numerous Returns to the Articles presented for this purpose will be found in the printed Hundred Rolls<sup>5</sup>. Proof of the former existence of distinct records relating to this ministerial enquiry is furnished by the discovery of certain fragments of Articles and Verdicts<sup>6</sup> which may probably be regarded as subsidiary to the existing pleadings connected with the statute of

<sup>1</sup> Hundred Rolls (Record Commission), vols. I. and II.

<sup>2</sup> Pat. 2 Ed. I, m. 5.

<sup>3</sup> The official arrangement and condition of these Records is well described in Scargill-Bird's *Guide* and in the official lists which give an inventory of the whole collection.

<sup>4</sup> Hundred Rolls (Record Commission), I. 102, *De ceteris articulis nihil sciunt nisi quod dicitur in rotulo de Ministris Regis et aliis*. Cf. Palgrave, *Kalendars*, I. 95 *unus rotulus de diversis articulis ad inquirendum super Ministris Regis cum copia cujusdam brevis super declaratione predictorum articulorum*.

<sup>5</sup> These proceedings are distinguished in the writ itself by the use of the word *insuper*. The articles also are for the most part presented *en bloc* and are very frequently ignored.

<sup>6</sup> Cf. Extract Hundred Rolls, No. 4, and Miscellanea of the Exchequer 31. Perhaps the Articles printed in Bracton, II. Appx. II. are connected with the same proceedings.

"Rageman<sup>1</sup>." It would appear therefore that at a certain point the procedure relating to the punitive inquisitions *De ministris* breaks off from that relating to the fiscal inquisitions which chiefly figure in the existing Returns. A similar distinction may be observed in the case of the *Quo Warranto* and "Rageman" pleadings amongst the Assize Rolls, the former relating to the fiscal and the latter to the punitive Articles of the inquisitions of 1274 and 1279<sup>2</sup>.

The origin and relations of the further inquisition of 1279 which forms part of the "Hundred Rolls" collection are still more obscure. The connexion of this group with the Statutes of Westminster and Gloucester and with the *Quo Warranto* plea rolls has been generally assumed, but in many respects this inquest may be regarded as an isolated ministerial measure designed to carry out on a larger scale the earlier inquisition *De juribus et libertatibus* of the year 1255 as well as the corresponding articles of 1274. The special reference of this later inquisition to the *feoda* and *feodalia* of the Crown can thus be easily appreciated<sup>3</sup>. From this date the origin and political significance of the "Chapters of the Eyre" are lost to sight in the purely conventional form of the judicial proceedings which will be referred to elsewhere<sup>4</sup>. With the enlarged scope of the judicature<sup>5</sup> compared with the fitful operations of the earlier itinerant justices there was no longer need for special ministerial action in such cases. Moreover it must be remembered that the new importance of the statutory inquisitions between 1255 and 1279 does not imply the disuse of the older system. In any case during the succeeding period we find the "New Chapters of the Eyre" ably administered by the justices as a supplement to the "Old

<sup>1</sup> *Stat. of the Realm*, i. 44. This statute distinctly refers to an inquisition on Articles to be delivered to the justices. The very title of the Statute is borrowed from an inquisitional form, *i.e.* the seals affixed to the original Inquisitions (cf. Halliwell, *Dictionary*, s. v.). For the contents of the original *Baga de Ragemannis* see *D. K. 9th Report*. Another use of the term, however, occurs in *Rot. Parl.* iii. 432, where we read of "Ragman," or *chartes blanches*, but the allusion may be to blank indentures executed under the seals of the parties.

<sup>2</sup> It is possible that a more or less distinct enquiry was made regarding encroachments on royal franchises, cf. *Miscellanea* of the Exchequer 278.

<sup>3</sup> *Pat.* 7 Ed. I, m. 21<sup>d</sup>. The *Forma Juramenti* is appended but not the *Forma Inquisitionis* which, however, can be easily gathered from the printed Returns in vol. II. of the Record edition of the "Hundred Rolls." The Writ indicates that the Returns were to be entered in "books" supplied to the commissioners for the purpose, but there seems to be no evidence that these were actually used although the exclusive character of the Returns might easily have suggested their employment in preference to the narrow rolls which have survived in connexion with the inquisitions of 1255 and 1274. But as we only have the Returns for five counties no general conclusion on this point is possible.

<sup>4</sup> Below, p. 318.

<sup>5</sup> *Stat. Westm.* (2) 1285. During the stormy reign of Edward II the political inquisition seems to crop up again, cf. *Pat.* 14 Ed. II, Pt 2, m. 13<sup>d</sup>.

Chapters," until the increasing activity of the Court of Exchequer and the new procedure of the Chancery and Council gradually curtailed the peculiar functions of the itinerant justices in this direction<sup>1</sup>. Political or statutory inquisitions of a special kind, in no way connected with the above procedure, are represented during the later Edwardian period by such well-known records as "Kirkby's Quest"<sup>2</sup> (1285) and the "Nomina Villarum" (1316). Of these the former is chiefly associated with returns of feudal services, but it has been clearly shown that one of the chief objects of this inquisition was to account for out-standing Exchequer tallies according to the directions issued in the Statute of Rhyddlan<sup>3</sup> (1284). The essential parts of this inquisition are well-preserved<sup>4</sup>, namely the Writ, the separate Form of Inquisition and the Returns now chiefly represented by later transcripts. The pleadings connected with this inquisition are represented by a few miscellaneous Assize Rolls<sup>5</sup>.

The record known as "Nomina Villarum" has also a regular diplomatic construction. The Writ is enrolled<sup>6</sup> and is also recited in the heading of the Return, but owing to the simple character of the information required there was no need here for separate articles. The Returns in this case also are preserved only in the form of later transcripts<sup>7</sup> and a statutory origin can again be found for these proceedings<sup>8</sup>.

Besides these inquisitions of an administrative character, others were taken during the 13th and 14th centuries to discover the forfeited estates of political offenders. Of these the Returns to the inquisitions concerning the "Lands of the Normans and Britons," forfeited by reason of the tenants' adherence to a French suzerain, may be found scattered throughout the feudal inquests of the first half of the 13th

<sup>1</sup> Cf. below, p. 319, for the use of both series in the same presentment. The political inquisitions which followed this procedure were superseded by the special commissions issued by the Exchequer and Chancery during the Tudor and Stuart periods whilst the Council and Secretariat also played a leading part in such enquiries.

<sup>2</sup> An admirable description of the MSS. and procedure connected with this measure will be found in the Preface to the Rolls Calendar of *Feudal Aids*, vol. I. p. viii sq.

<sup>3</sup> *Stat. of Realm*, I. 69. An original unprinted fragment of the proceedings of the commissioners in Cornwall will be found in L. T. R. Miscellaneous Rolls  $\frac{1}{2}$ . This shows the procedure with regard to tallies. These entries can actually be identified in an existing Assize Roll (see below, p. 325 n. 3).

<sup>4</sup> For the texts and literature concerning the same, see *Feudal Aids*, l. c. A specimen of a complete return for a single Hundred is printed here on page 86.

<sup>5</sup> e.g. Nos. 116 and 194.

<sup>6</sup> Close 9 Ed. II, m. 16<sup>d</sup>.

<sup>7</sup> Cf. Palgrave, *Parl. Writs*, II. (iii) (Intro.): *Feudal Aids*, vol. I. (Intro.) and Surtees Society's *Publications*, vol. 49.

<sup>8</sup> *Statutes of the Realm*, I. 174.

century<sup>1</sup>, but no regular sequence of diplomatic instruments is here preserved<sup>2</sup>.

The Records relating to the confiscated property of the Jews<sup>3</sup> and Templars<sup>4</sup> chiefly take the form of Accounts, though the inquisition of Templars' Corrodies in 1307—8<sup>5</sup> gives us an interesting diplomatic formula. Of far greater value for the purpose of diplomatic study is the inquisition "De Rebellibus" taken in 1265, which preserves the royal Writ, the Form of Inquisition, in the shape of distinct *capitula*, and the Returns in their original form<sup>6</sup>, together with certain pleadings thereon<sup>7</sup>.

In the case of two later famous inquisitions of the same nature relating to the "Contrariants" of 1322<sup>8</sup> and the "forfeitures" (*De forisfacturis*) of 1386—89<sup>9</sup> respectively, the bulk of the existing Records will be found to consist of Accounts.

Here again, however, the Returns of several political inquisitions of considerable importance no longer exist<sup>10</sup>, whilst others appear to be rather of the nature of judicial pleadings<sup>11</sup> though clearly connected with some special enquiry. Amongst the latter may be mentioned the so-called "Trailbaston" proceedings and a more obscure inquisition, *De malefactoribus*<sup>12</sup>, arising out of a protracted

<sup>1</sup> Cf. *Testa de Nevill* (*passim*) and Hunter, *Rotuli Selecti*, p. 259 sq., cf. also the Extents of Alien Priories, &c. from Edward III onwards amongst the Exchequer Accounts. For the formula of these Extents a specimen of 24 Edward I from K. R. Exchequer Accounts will be printed in *Formula Book*, Part II.

<sup>2</sup> A few Writs and Returns in the form of Extents will be found amongst the Chancery Miscellaneous Inquisitions.

<sup>3</sup> Cf. Scargill-Bird's *Guide*; *Transactions* of the Anglo-Jewish Historical Society, Vol. 3.

<sup>4</sup> Chancery Miscellaneous Rolls  $\frac{17}{8}$ ; L. T. R. Miscellaneous Accounts 18—21, *Monasticon*, vi. 813 sq. For the formula preserved in the Petitions for Templars' Corrodies see below, p. 324.

<sup>5</sup> Cole, *Select Documents*, p. 139.

<sup>6</sup> Cf. Pat. 49 Hen. III, m. 9<sup>d</sup>. The Returns are preserved amongst the Chancery Miscellanea (under arrangement). In addition to these there is a valuable belated Return for Kent amongst the Miscellaneous Inquisitions of the Chancery  $\frac{37}{4}$ .

<sup>7</sup> Hunter, *Rotuli Selecti*, p. 105.

<sup>8</sup> L. T. R. Enrolled Accounts, Nos. 13, 14, 18. The Writ and Form of Inquisition will be found in Pat. 15 Edw. II, Pt. 2, m. 12<sup>d</sup> and some Returns are placed with the "Ancient Extents" (Exchequer K. R.).

<sup>9</sup> But no trace remains of the inquisition referred to in Pat. 11 Ric. II, Pt. 2, m. 25<sup>d</sup>, 26<sup>d</sup>.

<sup>10</sup> e.g. the inquisition of 1340 following the disgrace of the great officers (cf. Stubbs, *C. H.* II. 404). The writ is entered in the Patent Roll 14 Edward III, Pt. 3, m. 3 and m. 8<sup>d</sup>.

<sup>11</sup> See below, p. 321.

<sup>12</sup> Cf. Pat. 33 Edw. I, m. 10<sup>d</sup>, m. 14<sup>d</sup>, m. 23<sup>d</sup> and 35 Edw. I, m. 16<sup>d</sup>. The jurors who present the Chapters of the Eyre for Surrey in 1307 (cf. below, p. 319 n.), allege in respect of the observance of the Statute of Winchester that proceedings under this statute are reserved for the justices of Trailbaston.



enquiry concerning the due observation of the Statute of Winchester<sup>1</sup>. Again in the case of the famous "Robbery of the Treasury" in 1303, we find the inquisition used for the purpose of a State trial<sup>2</sup>. From the close of the 13th century, as we have seen, the old inquisitorial procedure of the eyre was largely utilized for fiscal and political enquiries alike<sup>3</sup>, though traces of special inquisitions can still be found down to the 15th century. Thenceforth, as we have also seen, we have to do with a new procedure devised by the Chancery and the Exchequer.

In these "Special Commissions" of a later period the same diplomatic construction is still preserved. There is a Writ, now styled a commission, together with separate Articles of enquiry and more or less voluminous Returns. Connected with these we may have Pleadings and Accounts as formerly. Of this nature are the numerous and often important inquisitions and political "surveys" of the Tudor and Stuart periods, represented by such Records as the two great inquisitions of Depopulation through inclosures, in 1517 and 1605<sup>4</sup>, and the Parliamentary surveys of Crown and Church lands under the Commonwealth<sup>5</sup> together with inquisitions of forfeited estates extending as late as the Jacobite rebellions of the 18th century<sup>6</sup>. Occasionally these special inquisitions appear to be grafted on to the ancient procedure of the leet, and an archaic effect is produced which reminds us of the antiquity of these devices of local and ministerial government<sup>7</sup>.

<sup>1</sup> *Statutes of the Realm*, 1. 245. This ordinance has actually been regarded as a statute of 34 Edw. I under the title of *Articuli inquisitionis super Statutum Wyntonie*. The point of contact with the "Trailbaston" enquiry is perhaps seen in the form of enquiry *Quando observatur et in quibus [casibus] non; et qui noluerunt observari, aut qui...observari non permiserunt*, if we may regard the system of "Trailbaston" as one of intimidation.

<sup>2</sup> Palgrave, *Kalendars*, I. Appx.

<sup>3</sup> Cf. the order for inquisitions to be made *per justitios ad assisas* in Pat. 25 Edw. III, Pt. 1, m. 23<sup>d</sup>, and the case of the State Trials of 1289 (R. Hist. S. Camden, 3rd Ser. Vol. IX.). A supplementary procedure was available with the institution of the Justices of the Peace under Edward III, as seen in the cases connected with the Statute of Labourers.

<sup>4</sup> Ed. Leadam in the *Domesday of Enclosures* (R. Hist. Soc.); cf. E. F. Gay in *Transactions* R. Hist. Soc. XIV and XVIII.

<sup>5</sup> Cf. *D. K. 7th Report*, Appx. II. 224.

<sup>6</sup> Petty Bag, "Forfeited Estates."

<sup>7</sup> Miscellaneous Surveys of the Ordnance Department (cf. Ordnance, *Miscellanea*, 1073).

## ROYAL ACCOUNTS.

THE ancient system of Account known by the comprehensive title of the *Compotus* can be clearly shown to have existed contemporaneously with the diplomatic writings in use under the civilization of the later Roman Empire<sup>1</sup>.

It is true that the persistent employment of the symbols known as *Dicae*, tallies, and *numerales acervi* ("jettons") down to a comparatively modern period would seem to indicate an aversion from clerical accounts in the archaic practice of the Exchequer itself. It is not, however, in this direction that we shall find the connecting links between the practice of the royal Exchequer in England in the 12th century and the continental system from which the diplomatic arrangement of the conventional Account must be derived.

The practical necessity of administering princely estates by some closer system of reckoning than that of the notched stick gave rise to an official formula which is the characteristic feature of the manorial Account evolved from the agrarian survey of the 6th century. Here a *Descriptio* of the tenement is combined with an *Imbreviatio* of the stock, both being ascertained by means of a sworn *Inquisitio*<sup>2</sup>.

But besides these periodical valuations, we have references, under the Frankish system, to yearly manorial accounts in which the Receipts, Disbursements and Balance are carefully distinguished<sup>3</sup>. In this distinction we may recognize the germ of the later conventional manorial account which is arranged on a similar plan for entries of stock or cash<sup>4</sup>. The connexion between the two types cannot indeed be traced in existing documents between the 10th

<sup>1</sup> Cf. G. Friedlein, *Die Zahlzeichen, &c. vom 7 bis 13 Jahrhundert*; *Dialogus* (Clarendon Press), Intro. p. 39.

<sup>2</sup> Cf. above, p. 281 sq., and for the technical significance of *imbreviare*, p. 292 sq.

<sup>3</sup> *Mon. Germ. (Leges)*, p. 174 sq. Cf. Assize of Northampton (1176), Art. 10.

<sup>4</sup> Cf. the *Winchester Pipe Roll*, 1208—9 (1902), p. vii. In the conventional Minister's Account of a later period the cash account is on the front and the stock account on the dorse.

century and the middle of the 12th<sup>1</sup>; but the loss of earlier manorial accounts is not altogether surprising. The Account, regarded as a diplomatic document, the Return made to a Writ of summons or inquisition, is broadly distinguished from literary Returns by the presence of appropriate formulas based on the tripartite arrangement above referred to. The terminology of the Account naturally varies according to the subject-matter and the period of its execution; but whatever may be its official character or date, every account will normally contain the following divisions<sup>2</sup>:

1. The Heading, or Title, setting forth the subject of the Account, its date or locality, the name and capacity of the accountant and, in a later period, a reference to the royal Writ to which the Return is made<sup>3</sup>.

2. The Arrears of the last Account (if any) and how disposed of.

3. The Charge (*Oneratio*) for the Receipts, Imprest, or Profits for which the accountant is required to answer. These are set out by items of value or quantity at the several dates of receipt, and the total follows, marking the first stage in the tripartite division above referred to.

4. The Discharge, sometimes distinguishing between cash paid in and Disbursements and Allowances authorized or customary, showing the respective totals and the sum total.

5. The Balance or result of the subtraction of the Expenditure from the Receipts, indicating by a three-fold formula whether the Accountant is "quit," or "indebted," or possessed of a surplus<sup>4</sup>.

It will be evident that this normal construction of an Account, with the many variants which occur<sup>5</sup>, affords considerable scope for

<sup>1</sup> The manorial accounts of Bishops' Temporalities entered in the Pipe Rolls of Henry II. The admissibility of the 10th century inventory of Beddington (C. S. 618) has been previously referred to (p. 282).

<sup>2</sup> For a more detailed analysis of a manorial account see *Winchester Pipe Roll (Introduction)*.

<sup>3</sup> In the Declared Accounts of the Pipe and Audit Offices, the Writ (of Privy Seal) is usually recited *in extenso*. In the case of the process of the Exchequer, the Writ of Summons was actually issued and may even be regarded as the most ancient form of an official writ *de cursu*, but in other cases the appearance of the accountant at the audit and the obligation of presenting an Account at certain terms seem to have been understood without the issue of an official reminder. Moreover, the issue of the writs *de cursu*, above referred to, was requisite in order to put in charge accruing debts which were appended as a schedule.

<sup>4</sup> When the Account showed a normal excess of receipts over expenditure the clear profit made was frequently indicated by the word *Clarum* or *Remanet*. In other cases this profit was anticipated by a system of "assignment" as to which see Sir J. H. Ramsay, *Antiquary*, Vols. I. IV. VI. VIII. X. XIV. XVI. XVIII. and H. Hall, *Customs Revenue*, II. 185.

<sup>5</sup> In the case of the Exchequer Pipe Rolls a precise charge is not always formulated, but may be inferred from the balance declared after a statement of disbursements and allowances,

conventional terms and formulas of a quasi-diplomatic nature<sup>1</sup>. This aspect of the Account may be also modified by the technical or official form in which it is presented.

Usually every Account passed through several stages of preparation or declaration which may be enumerated as follows :

1. The Particulars of the final Account, contained in the accountant's ledger or day-book, or in the separate Returns of sub-accountants<sup>2</sup>. These were usually annexed to the final Account in the shape of vouchers which are rarely preserved.

2. The Original (final) Account above referred to<sup>3</sup>.

3. "Estreats" and "Parcels" of Accounts in the form of abstracts communicated or preserved for official information<sup>4</sup>.

4. The Enrolment of the Original Accounts in a continuous series for the purpose of an audit or for official reference<sup>5</sup>.

5. Entries or compilations, usually in book form, to serve as precedents or for statistical purposes<sup>6</sup>.

In connexion with this sequence of forms there are several other types of a subsidiary nature<sup>7</sup>, and in the case of certain sources of receipt or disbursement the Account may assume a narrative and literary form<sup>8</sup>. Again it is often difficult to distinguish between a mere Account and certain forms of Inventories, Taxations and Assessments which are usually classified with diplomatic Records<sup>9</sup>.

each item being separately accounted for (cf. Cunningham, *Industry*, I. 158; H. Hall, *Antiquities of the Exchequer*, p. 143 sq. and *Dialogus* (Oxford ed.), p. 52.

<sup>1</sup> For some of these see *Winchester Pipe Roll*, *loc. cit.* and Pipe Roll Society's *Publications*, Vol. III. For the terminology of the Audit cf. *Antiquities of the Exchequer*, p. 135 sq.

<sup>2</sup> Thus a manorial bailiff's Account was usually compiled from the Returns made by subordinate accountants like the flock-master, granger, &c. In the Exchequer itself the "day-books" on the Receipt side served as vouchers for Accounts presented for audit.

<sup>3</sup> Represented by the great class of "Exchequer Accounts." The *Visus compoti*, or *interim* Account, can scarcely be regarded as a distinct form.

<sup>4</sup> e.g. Estreats of amerciements (*extracta debitorum*), "Parcels of the Pipe" and the *Pedes parcellarum* amongst later Records.

<sup>5</sup> For a description of these see Public Record Office Indexes and Lists, "Foreign Accounts," *Introduction*.

<sup>6</sup> e.g. The Abstracts of the Pipe Rolls in the *Red Book of the Exchequer* and the conventual accounts in the "Miscellaneous Books" of the Augmentation Office. Previous to the reign of John these were probably in the form of Rolls. The lost Records known as the *Rotulus Exactorius* and the Danegeld Roll were of this nature.

<sup>7</sup> These include some deposited documents. It was not till the 15th or 16th century that variants of the universal *Compotus* were familiarly designated as "Inventories," &c.

<sup>8</sup> e.g. the Fine, Imprest, *Misæ* and similar memoranda of the Chancery.

<sup>9</sup> e.g. Inventories of Jewels, Plate and Records; the Taxation of 1291 and certain assessments for Parliamentary Subsidies and Knight's Service; also special Inquisitions such as the well-known Extents of Templars' &c. lands.



Finally it may be noticed that the royal Writ employed in connexion with these Records assumes several recognized forms according to the occasion of its issue. Thus the Writs which precede the Return made in the Account are those of Summons<sup>1</sup> or Assignment<sup>2</sup> of various kinds. Also every order or writ of allowance must be produced as a voucher at the audit of the Account<sup>3</sup>. Finally there are the writs of execution or special pardon which might be issued in consequence of the accountant's indebtedness<sup>4</sup>.

In spite of the presence of precise and technical formulas in the conventional type of account described above, the title has been somewhat loosely applied to a large mass of Exchequer Records which includes such utterly dissimilar forms as Diplomata, Letters, Inquisitions and Returns, Certificates, and even Pleadings. In one aspect indeed these documents may fairly be regarded as Accounts, since they can convey the same information in a diplomatic, epistolary or narrative form<sup>5</sup>. Reference has already been made to the difficulty that is frequently experienced in distinguishing between true Accounts and the statistical forms of certain agrarian and feudal surveys and inquisitions, but here we approach more nearly to the common origin of these two sections of our ministerial Records.

<sup>1</sup> *Dialogus*, II. 1. Cf. Bigelow, *Procedure*, on this subject and above p. 308 n.

<sup>2</sup> Local supply writs entered in the Close Rolls.

<sup>3</sup> e.g. the writs of *Allocate*, *Compute*, &c. Cf. *Dialogus*, I. vi.

<sup>4</sup> Entered in the Memoranda Rolls of the Exchequer and in the Patent, Close or *Liberate* Rolls respectively.

<sup>5</sup> Cf. the well-known narrative account of Richard de Anesti (ed. Palgrave, *Commonweal*) and the Returns of knights' fees in the Exchequer Feodaries.

## JUDICIAL PROCEEDINGS.

### (a) *Judicial Records.*

AMONGST the many legal terms that have passed into the vocabulary of mediaeval history, few are more familiar than the title which is somewhat indiscriminately bestowed on the more ancient Archives of the State.

In a legal sense, the "Record" has a purely technical significance, but as a conventional expression it stands for the purest sources of history. If we wish to know the meaning of the term in its legal aspect, we shall find a learned and indisputable definition in some ancient commentary. But if we ask the further question "when were judicial pleadings first recorded in this country, and what was their earliest form and object?" an answer will not be easily forthcoming.

It is true that, from one point of view, the earliest extant form of a judicial Record is seen in the royal charter which was admitted as an evidence of title and which even served as a medium for recording judicial pleadings. Several interesting reports of cases, which in a later period would have been duly recorded in the Plea Rolls, are imbedded in the texts of Anglo-Saxon and Anglo-Norman charters<sup>1</sup>. Narratives of law-suits which remind us at one time of the famous pleadings on Pendon Heath, and at another time of the adventurous litigation of Richard de Anesti, have been preserved from the 8th century onwards, besides a considerable number of official writs, and a few inquisitions, licences and oblations. Naturally the authentication of these evidences is not always complete. A few are preserved in contemporary and presumably genuine charters, others in cartularies of both good and bad repute. Such as they are, however, they have been freely used to illustrate the legal procedure of the Anglo-Norman period<sup>2</sup>.

<sup>1</sup> C. S. 378, 386, 387, 574, 575, 591, 1063, 1064, 1097; C. D. 758. For the composition between the churches of Canterbury and York in 1072, see Wilkins, *Concilia*, s. a.

<sup>2</sup> Bigelow, *Placita Anglo-Normannica* (*passim*).

In one respect, indeed, these diplomatic documents may be regarded as Records of consequence, for a grant contained therein was treated by the courts as *res judicata* in spite of the purely evidential nature of the instrument itself. At the same time it may seem somewhat futile to regard the Old English "land-bocs" and writs as a species of *primaeval* Record. To do so might tempt us to ignore the obvious distinction between the opportune production of many of these evidences and the systematic registration of royal grants, or private deeds, or the judicial conventions framed upon a diplomatic model, whereby land is securely held or easily conveyed in a later period.

Setting these diplomata aside, we have still to discover the earliest date which can be assigned to the actual Records of the courts of law. Here we must distinguish between the judicial proceedings recorded in official enrolments and the private reports of certain famous *Placita* which have been preserved in monastic registers<sup>1</sup>. The reports in question have been generally accepted by historians; but it must not be forgotten that they are merely *ex parte* versions of the alleged proceedings, in most cases compiled long after the date of the events which they commemorate. Moreover, in some cases at least, the veracity of these relations is seriously impugned by the character of the charters which have been introduced as the subject-matter of reputed pleadings.

Possibly a certain number of these narratives may give a true though confused version of the judicial procedure employed. Again it might be alleged that the charters cited therein, however glaringly false, would have been accepted without demur by the courts in a later age and recorded in their official enrolments. In any case these picturesque relations would appear to have been accepted by most modern writers without any suspicion of a possible motive for their composition.

It is generally agreed that the Rolls of the King's Court date only from the reign of Richard I, just as we have learnt that the enrolments of the Chancery begin with the reign of John; whilst no judicial proceedings of the Court of Exchequer have been identified before the reign of Henry III.

Of course we have Domesday Book, with its Appendix of "Claims" and its incidental references to pleadings, the exact value of which as precedents for curial procedure it has not been found

<sup>1</sup> e.g. of Rochester, Worcester and Ely, together with Chronicles like those of Abingdon, Ramsey and Battle.

easy to determine<sup>1</sup>. Again we have further references in the Great Rolls of the Exchequer which at least afford the presumption of an organized machinery of justice in the reign of Henry I though obviously this cannot be regarded as continuous.

The date of the "earliest recorded plea" has been the subject of several learned and interesting speculations in recent years<sup>2</sup>. Certainly no original pleadings earlier than the reign of Richard I are known to exist, but a plea-roll of the year 1207 recites the record of a case heard in Hilary term of the 27th year of Henry II, which has been identified with that year<sup>3</sup>. This belated reference will remind us of the existence of certain "Rolls of justices itinerant" alluded to in the *Dialogus*<sup>4</sup>, though we have been warned against attaching a conventional meaning to a title which may possibly refer to mere lists of amercements<sup>5</sup>.

In the case of the "Fines" of the King's Court, which have already been traced back to the year 1175, it is also necessary to distinguish between official rescripts which have been continuously filed in official custody and the private copies of alleged judicial Concords which occur in certain monastic registers for a still earlier date<sup>6</sup>. The existence of these entries, however, coupled with the notices of judicial Concords found in the Pipe Rolls prior to the reign of Richard I and the fact of the great antiquity of the Concord or Convention as

<sup>1</sup> It is noteworthy that as long ago as 1886 Mr J. H. Round in a remarkable paper in *Domesday Studies* (Vol. II. p. 539 sq.) pronounced a decided opinion in favour of the judicial character of these proceedings. The "reconstruction," by the same learned writer, of the Worcester law-suit (1082—86) and other early pleadings is referred to below, p. 322.

<sup>2</sup> *E. H. R.* XI. 102, and below n. 6.

<sup>3</sup> *Select Pleas of the Crown* (Selden Soc.), pp. xxvi—xxviii. Mr Round in *Domesday Studies* (II. 548) adduces a reference from the Colchester charter of Richard I to Inquisitions taken before the justices itinerant in this reign.

<sup>4</sup> *Dialogus*, II. i.

<sup>5</sup> *History of English Law* (Pollock and Maitland), I. 135, n. 2. It might still be urged with considerable diffidence, that the Rolls referred to in the above passage of the *Dialogus* must have been something more than mere lists of amerciements, as we are told that these had to be picked out from the Rolls at the Exchequer. In a later period such lists (estreats) of amerciements were separately returned. Again, we know now that these amerciements were entered as above in the Exchequer Receipt Roll, and the Pipe Roll of 1185 tells us that the record from which they were derived made mention of the "causes" of amerciements *pro foresta*. It is certainly difficult to read the story of Richard de Anesti's law-suit without supposing that some record of judicial pleadings was preserved before 1159. A later and clearer allusion is to be found in a passage of the *Rotuli de Dominabus* (below p. 323, n. 7).

<sup>6</sup> Cf. J. H. Round in *Feudal England*, p. 509, and *E. H. R.* XII. 293; F. W. Maitland in *Select Pleas of the Crown* (Selden Soc.), pp. xxvi—xxviii; Pollock and Maitland, *History of English Law*, II. 96, n. 5; E. M. Poynton in *E. H. R.* XVII. 282, and *Genealogist*. The date 1163 has been assigned by Mr Round to a Concord confirmed by the Curia (Pipe Roll Society, Vol. x. p. 67). Cf. also Pipe Roll, 31 Henry II, the Fine of Wm de Griseleia (p. 11).



a diplomatic instrument, should perhaps prepare us for further discoveries in this direction.

Now and again certain of our older antiquaries have implied in oracular terms that the losses which we have suffered in respect of early Records are even more extensive than we have imagined<sup>1</sup>. Mediaeval writers, it is true, are reserved as to the precise contents of the Record-chests in the royal treasuries at Winchester or Westminster; but, at the same time, some recent discoveries of unsuspected Records would seem to justify a further consideration of the subject.

A specimen of the writ of *Liberate* described in the *Dialogus* has lately been re-discovered amongst the Exchequer Records<sup>2</sup>. The Pipe Roll of the first year of Henry II can be to a large extent restored from an abstract that has been preserved in an Exchequer register<sup>3</sup>. Quite recently there has been brought to light a considerable portion of a noble Receipt Roll of the year 1185<sup>4</sup>, whilst Memoranda Rolls of the English and Norman Exchequers can be identified with the reigns of Richard I and John<sup>5</sup>.

Now the *Dialogus*, which enumerates certain well-known Records, makes mention also of others, none of which were until quite lately known to have survived<sup>6</sup>. It might fairly be argued, therefore, that the unexpected recovery of Records dated many years anterior to the earliest known examples of their class should lead us to attach greater importance to the statements of the above treatise with regard to these prehistoric plea-rolls. After all, however, the existence of a royal administration of justice before the last years of the 12th century does not depend on the survival of actual Records of its proceedings. That such an administration existed, we know well; that its proceedings were unrecorded save in the form of a casual reference in a charter or Pipe Roll or of an interested narrative, we may believe or not as we please; but to many it must still appear that a gulf is fixed between the earliest informal notices of judicial proceedings dating from the middle of the 12th century and the unbroken series of rolls and chirographs that date only from its close.

<sup>1</sup> Cf. *Quarterly Review*, xxxix. 60; Ayloffe, *Calendars* (Preface).

<sup>2</sup> Printed in Pipe Roll Society's *Publications*, Vol. x. This interesting relic was found amongst some miscellaneous Exchequer fragments.

<sup>3</sup> *Red Book*, p. 648 sq.

<sup>4</sup> L. T. R. Miscellaneous Rolls, Bdle. I. Nos. 1 and 2, edited by the Palaeography Class of the London School of Economics (1899).

<sup>5</sup> L. T. R. Memoranda Rolls, Bdle. I. Nos. 3 and 4, and Exchequer Accounts 505/4. Cf. also a curious reference to Exchequer proceedings about the year 1196 in the *Chronicle of Jocelin de Brakelond*.

<sup>6</sup> *Dialogus*, I. xiv. and II. v. vi. *Red Book*, CCLII, 659 and 771.

(b) *Judicial Inquisitions.*

There is one persistent feature of the prehistoric Records above referred to that must attract our attention. The claims asserted in Domesday Book and its surviving satellites, the picturesque reports of royal pleas and early decisions of the Exchequer court have this in common with the later series of judicial Records, that they are equally Returns to royal Writs.

From this point of view the Writ itself may be regarded as a Record, and as the Writ was returnable to the court which issued it, so it would become a material part of the Records of that court.

In some cases, indeed, the Record, as we have seen, may assume a diplomatic form, and, in the case of the Concord, or Fine, the form of the private Convention has been utilized<sup>1</sup>. The Writ, however, was from the first a royal instrument. Even before the Conquest it was employed, as we know, for business of a ministerial character which may also have a judicial tendency<sup>2</sup>. With the accession of Henry II the Writ enters upon a new epoch of ministerial activity. In addition to the increased number of Returns made to royal inquisitions, we can trace the new influence of the Writ in the steady accumulation of Exchequer Records<sup>3</sup>. But, more than this, in the same reign we find the first organized machinery of royal justice towards which the communal and seignorial courts, the moots and sokes of immemorial antiquity, must henceforth preserve an attentive demeanour.

It has been admirably suggested that the ministerial inquest provides the connecting link between the old judicial system and the new<sup>4</sup>. That is to say, the royal inquisition, whether of stock or tenures, or taxation, or for general purposes of local administration is extended to the procedure of justice in civil causes. The path of reform is marked by the judicial assizes of the reign, and these are supplemented by other litigious processes until the frame of the old royal Writ is covered by a net-work of complex forms. But although

<sup>1</sup> It must be remembered, however, that the originating Writ on which the judicial Concord was based had an important part in the proceedings. We find, indeed, that these writs were ordered by Statute (5 Hen. IV, c. 14) to be enrolled as though they constituted the essential part of the Record. No such special enrolments seem to have been preserved, however, before the reign of Elizabeth.

<sup>2</sup> Cf. above, p. 213 sq.

<sup>3</sup> Bigelow, *Procedure*, p. 113 sq. The "Summons of the Pipe" is not only responsible for returns in the shape of various Accounts, but also for the proceedings (Pleadings) thereon known to us as Memoranda, which in turn give rise to further Extracts (Estreats) used for departmental purposes.

<sup>4</sup> *History of English Law*, I. 118 sq. Cf. C. Haskins in *A. H. R.* July 1903.

the pleadings which resulted from these instruments have been duly placed amongst judicial Records, the significance of their evolution from the ministerial Writ has not been recognized in any scheme of Record classification.

From a purely diplomatic point of view, therefore, a Record, as we have seen, may be regarded as a Return made to a special Writ of inquisition or else as a report of the proceedings on Original and Judicial Writs recorded in a court of law. In the former aspect we have to do with a long series of Inquisitions and Returns, made for a variety of purposes, from Domesday Book to the Special Commissions of the 18th century. In the latter and more restricted sense of the term we have the actual Records of the several courts, the Pleadings and proceedings subsidiary thereto.

The official distinction between the two classes of Records has been very sharply drawn, but we have already discovered from a diplomatic examination that some ministerial inquisitions, under the existing arrangement, are really curial Records, whilst others now classified as judicial proceedings are to be regarded rather as mere inquisitions. The true nature of either type of inquisition may be obscured, by accidental detachment from the covering Writ, or by the abnormal form of a lengthy schedule.

In most cases, however, the essential construction can be easily perceived. The relationship of the Return to the parent Writ is in fact only a matter of degree. In one case this Return will take the conventional form of a diplomatic instrument which may embody the information required by the Writ or may append the same in a schedule. Indeed we are often able to reconstruct the Writ itself, where it has not survived, from the formulas preserved in the Return. In other cases a special type of diplomatic construction has been evolved from a judicial procedure, and this will continue to preserve its own distinctive formulas<sup>1</sup>. Finally there are cases in which we

<sup>1</sup> It is true that the ministerial and judicial writs of the 11th and 12th centuries are very general in form, and do not, except in the case of instructions for taking an inquisition, usually present any regular or conventional formulas which could serve as a basis for the form of subsequent pleadings. At the same time we cannot ignore the fact that such common forms were utilized in the case of Returns to official Writs or Articles of inquisition in the reign of Henry II, as in the well-known instances of the feudal circular of 1166 and the Inquest of Sheriffs in 1170. However, as so few authentic pleadings exist prior to the age when royal writs were issued *de cursu*, and when the pleadings thereon assumed an appropriate form, the point cannot be insisted on. Probably the pending investigation of the Norman diplomata by Prof. Haskins will throw fresh light upon this subject.

For the agrarian origin and use of the 11th century *Breve* cf. above, p. 281 sq., and Ducange, *Glossarium* s.v.

find no regularity or persistence of formulas, whilst from the first a class of sterile Writs has existed to which no precise Return whatever is anticipated.

Evidently, therefore, it will be a matter of some difficulty to distinguish between certain ministerial inquisitions executed by the royal machinery of justice and certain judicial proceedings in their ministerial aspect. Possibly this difficulty is due to our own narrow view of the relations between ministerial and judicial procedure and their respective Records. As matters stand, however, a rather fine distinction must either be made between judicial inquests and judicial pleadings, or we must, as far as possible, exclude from either category documents which assume the form of judicial proceedings whilst subserving a purely ministerial purpose.

On the other hand we might be tempted to include amongst these judicial inquisitions certain ministerial Records which present a quasi-diplomatic form. One such feature is seen in their execution as a matter of official routine. Thus the Coroner's inquest with its ancient procedure<sup>1</sup> may be regarded as subsidiary to the judicial proceedings of the eyre. In another aspect, however, these functions have been regarded as of a ministerial and particularly of a fiscal nature<sup>2</sup>. From this point of view the coroner's inquest will resemble the "office" taken before the Escheator, a minister with whom he was frequently associated. Moreover his official rolls are auxiliary rather than subsidiary to the pleas held by the king's justices<sup>3</sup>, whilst their form is somewhat diplomatic. This may even consist of a Writ and Return, whilst the mere inquest *ex officio* is usually furnished with a narrative preamble. Some interesting variants are found in the kindred judicial Records known as "Ancient Indictments," especially in connexion with the custom of "abjuring the realm"<sup>4</sup>.

Another type of the conventional judicial inquisition is seen in the proceedings under the well-known writ *De odio et atia*. Although this and some kindred instruments have been included in a new official class of "Criminal Inquisitions," its ministerial character can scarcely be insisted on in view of the *ex parte* use of the Writ itself and the judicial proceedings which it originated<sup>5</sup>.

<sup>1</sup> *Capitula placitorum Coronæ* (Hoveden, *loc. cit.*) and see Gross, *Coroners' Rolls* (Selden Soc.), p. 14 sq.

<sup>2</sup> Cf. Gross, *op. cit.* pp. xxiv—xxvi.

<sup>3</sup> The Justices had the rolls both of the Coroners and Sheriffs before them when dealing with the presentments made to the "Chapters of the Eyre" (*Hist. English Law*, II. 643).

<sup>4</sup> Cf. A. Réville on the *Abjuratio regni* in *Rev. Hist.* t. 50. A narrative form of Return occasionally in the first person, is found in the Ancient Indictments.

<sup>5</sup> *History of English Law*, II. 585.



Indeed, we are reminded that the early procedure of the Chancery itself was, in one sense, of a ministerial character, and possibly these "Criminal Inquisitions," like other waifs and strays from the "Chancery Files," should be regarded as subsidiary judicial records.

Closely related to these judicial inquests in their legal aspect, though differing widely from them in their diplomatic capacity, are the presentments of the county by its "hundreds," "vills" and "liberties," made before the royal justices in their eyres. These, whether accusative or merely inquisitive in character, are not actually Returns made to a special Writ. They cannot even be regarded as differing perceptibly from the like presentments that had been made in the local courts as determined by the ancient dooms. The "hundreds" and "vills" continue to make use of the old machinery of justice. The sheriff takes many a "turn" in the long intervals between judicial eyres and the coroner is in attendance to collect materials for future indictments.

On the other hand the inquisitional nature of these formal judicial presentments is revealed by documentary evidences—the royal commission to the justices in eyre, the royal mandates to the sheriffs and coroners, the long schedule of the Articles of Inquisition with their Returns, and the subsidiary documents by which these will be verified, all tell of the new device of a "prerogative process" which here, as elsewhere, has been imposed upon an earlier judicial system.

The inquisitional procedure of the old judicial eyres from 1194 to 1275 has been previously referred to<sup>1</sup> as the basis of the special or statutory inquisitions which assume such prominence between the years 1255 and 1275. These well-known returns, owing to their political environment, have been accepted without question as ministerial records although they appear to have been administered for the most part by the same judicial machinery that sets in motion the detailed presentments to the "Old Chapters of the Eyre." These, in turn, from their fiscal and feudal importance, might even appear to be rather of a ministerial than a judicial type<sup>2</sup>. Indeed, it may be that the king's justices inherited some of the administrative duties of the sheriffs whom they had replaced for judicial purposes since the close of the 12th century, just as they were relieved in turn of certain administrative functions by the justices of the peace under the new *régime* of the Tudor monarchy. However this may be, it is a some-

<sup>1</sup> Above, p. 300 sq.

<sup>2</sup> Cf. above, p. 291 sq. We gather from the *Rolls of Parliament* (III. 222<sup>b</sup>) that inquisitions taken before the Justices of Assize *ex officio* as to the value of franchises granted by the Crown out of the county might prevent a serious injury to ministerial interests.

what significant fact that the enrolments of the presentments made to the "Chapters of the Eyre" have not been preserved with the judicial pleadings, although their extensive nature may be realized by reference to one of the few complete returns that have survived<sup>1</sup>.

In the case of the judicial Records above referred to, namely the Coroner's Inquest, the so-called "Criminal Inquests" and the "Chapters of the Eyre," we have to do with the more obvious types of the judicial inquisition in its official or conventional aspect. In addition to these there are other types the exact position of which is more obscure.

It has been seen that the royal inquisition of the 11th and 12th centuries could be utilized for the purpose of a special judicial investigation. The exact nature of the judicial proceedings connected with the Domesday Survey is by no means clear<sup>2</sup>, but a good deal of material exists for a reconstruction of the presentments and pleadings consequent on several of the great political inquisitions of the 13th century in which the Returns made to the original Writ of inquisition serve in turn as information for a prosecution by the Crown<sup>3</sup> or for claims advanced by individual plaintiffs<sup>4</sup>. The actual pleadings referred to will be noticed elsewhere<sup>5</sup>, but something remains to be said with regard to the form of the inquisitions in question.

It has been acutely suggested that the origin of the judicial inquisition may probably be found in the continental procedure which existed in the Norman and Angevin provinces before the accession of Henry II, as indicated by the famous Bayeux register<sup>6</sup>. But even before the memorable reforms of the first Plantagenet king, or the innovations of his continental predecessors, the judicial inquest can be recognized as an essential device of the fiscal inquisition of the Anglo-Norman period on the authority of certain monastic Registers<sup>7</sup>.

In any case the machinery for this inquisitional procedure is clearly indicated before the close of the 12th century. The ordinance for holding the judicial and fiscal eyres in 1194<sup>8</sup> may be regarded as the starting point of a newly-organized system of royal inquisitions, and this is followed by the notices which occur with increasing

<sup>1</sup> Assize Rolls, Nos. 890—906, a series of eyre presentments to both the Old and New Chapters for the county of Surrey alone, apparently of the date 1305. The Returns present some interesting local variants, *e.g.* the condition of the salmon fisheries in several reaches of the Thames (cf. Pat. 33 Edw. I, m. 7<sup>d</sup> and 6<sup>d</sup>).

<sup>2</sup> Mr J. H. Round in *Domesday Studies*, II, 539 sq.

<sup>3</sup> *e.g.* The *Quo Warranto* Rolls.

<sup>4</sup> *e.g.* The *Placita occasione Turbationis* (1252), ed. Hunter, and the *State Trials* of 1289, &c. ed. R. Hist. Soc. Camden (3rd Ser.), Vol. IX.

<sup>5</sup> Below, p. 322.

<sup>6</sup> C. Haskins in *A. H. R.*, *loc. cit.*

<sup>7</sup> Cf. below, p. 323.

<sup>8</sup> Cf. above, p. 291.

frequency during the 13th century of special inquisitions in close connexion with this organization<sup>1</sup>. It would even seem that the machinery of the local courts could be utilized for the purpose of these extra-judicial enquiries. In this connexion we may notice an interesting series of inquisitions or Extents relating to the royal manor of Ospring<sup>2</sup> towards the middle of the 13th century. Articles of inquisition were administered to the local jurors, presumably in accordance with a Writ which has not been identified. These Articles comprise, in addition to the usual subjects of an agrarian Extent, questions concerning the alleged trespasses of local officers in the manner of the political inquests which have been previously described. Here, too, we find traces of pleadings and decisions of the court in individual cases which closely resemble the pleadings in *Quo Warranto* and "Rageman" of a later period.

It is, however, the connexion of the two last-mentioned Records with the ministerial inquisitions so well-known to us as the "Hundred Rolls" that affords the clearest view of the development of the usual official enquiry into formal judicial proceedings, based in some cases upon further local presentments. In one direction we have these well-known Returns indicating the results of a royal Writ and Articles of inquisition; in another we have the pleadings thereon which were communicated to the itinerant justices in order that informations might be laid thereon to recover the "rights" of the Crown. Again, we have special Articles of enquiry and special inquisitions and pleadings relating to the trespasses of evil ministers<sup>3</sup>. Of these, the pleadings on writs of *Quo Warranto* can be easily identified with the precedent inquisitions in the printed volumes of the Hundred Rolls<sup>4</sup>, but of the further proceedings taken under the statute of "Rageman" against the royal ministers we find only a few slight traces in the printed collection of pleadings in *Quo Warranto*<sup>5</sup>. Unfortunately, however,

<sup>1</sup> The Record of the royal inquisition, whether ministerial or judicial, should properly include, besides the Writ, Form of Inquisition and Return, the *Nomina Juratorum*. These, however, though they are, as we know, preserved as early as the Domesday Survey, are rarely met with as a separate schedule to the Return. A nearly complete list for all the hundreds of Gloucestershire, in 13 Edward I, apparently in connexion with Kirkby's Quest, will be found in L. T. R. Misc. Rolls 4.

<sup>2</sup> *Testa de Nevill*, p. 217. Somewhat similar cases occur amongst the large and miscellaneous class of "Ancient Extents."

<sup>3</sup> Cf. above, p. 302.

<sup>4</sup> Cf. Vol. I. p. 100 and 103, the case of Thomas de Well's sergeanty, and the subsequent proceedings in the *Placita de Quo Warranto* (p. 181), from the Assize Roll (203) of 6 Edw. I. For a special enrolment of the presentments against the Earl of Gloucester in divers counties, see Misc. of the Exchequer 36.

<sup>5</sup> Cf. p. 382<sup>b</sup>, where the king's attorney informs the court that *quoad presentata in le*

the form of the articles connected with the special inquisitions "De Ministris" cannot now be ascertained from existing Records<sup>1</sup>, whilst pleadings "De Ragemannis," analogous to the pleadings "de Quo Warranto," can be occasionally identified in the sparse collection of surviving Assize Rolls<sup>2</sup>.

One other type of royal inquisition may be noticed here as preserving, externally at least, a judicial form. The reference is to those political inquisitions which are recorded in the form of judicial presentments, as in the well-known case of the proceedings connected with the robbery of the royal treasury at Westminster in the year 1303<sup>3</sup>.

Such an inquisition as this must be distinguished from certain political commissions in which the court is constituted by a royal commission, but instead of the presentments of local jurors the *Querelae* or *Petitiones* of individual plaintiffs are the subject of formal pleadings<sup>4</sup>. Finally it may be noticed that, while certain types of the judicial inquisition, such as the Coroner's Inquest, may be met with down to a comparatively late date, the procedure that is associated with the great political inquests of the 13th and 14th centuries is practically unrepresented from the beginning of the Tudor period, not so much from "poverty of justice" as from the paucity of local Records.

*Rageman nondum est paratus*, an allusion to the distinct proceedings in such cases enjoined by the Statute of 1276. Some pleadings, however, are recorded here (cf. p. 387<sup>b</sup>).

<sup>1</sup> The fragments preserved in Misc. of the Exch. 31 are not of this nature as claimed by an old official endorsement. In the Extract Hundred Rolls, No. 4, we find references to a "Rotulus de Inquisitione," and this can be identified with the "Hundred Rolls," which give references, in turn, to special inquisitions *De ministris*.

<sup>2</sup> Cases relating to Norfolk and Suffolk will be found in Assize Roll, No. 1233 for 6 Edw. I, some of which can be clearly identified with the Hundred Roll inquisitions and the proceedings *De ministris* above referred to. For the noticeable variants occurring in these several versions see the case of J. de Gymmingham in Hundred Rolls, 1. 534<sup>a</sup>, Extract Hundred Rolls, No. 4, m. 1<sup>d</sup>, and Assize Roll, 1233, m. 5<sup>d</sup>.

<sup>3</sup> Palgrave, *Kalendars*, 1. Appx. Here a commission was issued (Letters Patent) indicating the form of the proceedings.

<sup>4</sup> Cf. the trials of the justices in 1289—91 as recorded in two special Assize Rolls (edition R. Hist. Soc. Camden (3rd Ser.), Vol. IX.). The special character of these proceedings is confirmed by the contemporary judicial ruling (cf. *Abbrev. Placitorum*, p. 305) that appeals from the commissioners lay only before the King and Parliament. The petitions and other proceedings respecting the Templars (Cole, *Documents*), and the forfeited lands of Normans and followers of de Montfort (Hunter, *Rot. Selecti*) and Lancaster (*Abbreviatio*, p. 343<sup>b</sup>) are certainly consequent on extensive inquisitions, but no information with regard to the process by which these further proceedings were originated has been discovered. A good deal more information is forthcoming with regard to the prosecutions under the Statute of Labourers (Assize Rolls 170, 312, 313, &c.) and the Extents made at several times of Aliens' lands, in both of which the inquisitional procedure is well developed (see below, p. 326).



*(c) Pleadings on Inquisitions.*

The origin of pleadings in English courts of law has been the subject of various learned and somewhat conflicting speculations. Regarded as a national and also as a professional usage, this legal procedure with its infinite niceties does not concern us here. Indeed it is not in the forms of pleadings at large that the study of English Diplomatic has any part. In a very restricted sense only can we venture to claim an interest in a subject that properly belongs to the department of the legal antiquary.

The extent of the present enquiry has been already indicated in the preceding sections dealing with the somewhat anomalous position of those ministerial or judicial records which derive a certain diplomatic character from their connexion with a royal writ. Here then, as before, the Writ with its complement in the shape of a Form of Inquisition and an appropriate Return is at the bottom of our diplomatic investigation.

But even before the writ itself was conceived as an instrument of royal justice, and again during its earliest infancy, we are able to discover traces of judicial pleadings recited in a royal charter or inquisition. Certainly we must not hazard the suggestion that, from the first, judicial pleadings were modelled on the form of the originating writ; nor can we, during the earliest period of the administration of royal justice, detect so much as a tendency in this direction. We should search in vain amongst the Old English charters for records of pleadings resembling the notarial reports which may be found in Frankish charters as early as the 8th century<sup>1</sup>, although certain narrative forms occur in the Codex both in Latin and vernacular charters<sup>2</sup>.

With the Domesday Survey, however, we can begin to collect notices of many famous *Placita* and in the well-known proceedings preserved in Heming's cartulary there is at least much scope for diplomatic criticism<sup>3</sup>.

<sup>1</sup> Cf. the charter of Pepin, A.D. 749 (ed. Bouquet, iv. 714).

<sup>2</sup> Cf. above, p. 311.

<sup>3</sup> The memorable law-suit between the Church of Worcester and Abbey of Evesham (c. 1082—86) reconstructed by Mr J. H. Round, with a valuable commentary, in *Domesday Studies*, II. 539 sq. from the confused text of Heming's cartulary (ed. Hearne, pp. 75—83). The procedure described is as follows:

- (1) Writ to the royal commissioner to hold the Plea.
- (2) The record (*commemoratio*) of the Plea.
- (3) Writ to give effect to the decision.
- (4) Certificate by the commissioner as to the finding.
- (5) Convention between the parties consequent thereon.
- (6) Entry of the finding (*pro evidentia*) in Domesday Book.
- (7) Breviate of the entry in Domesday Book.

Equal caution should perhaps be exercised with regard to the interesting record of the litigation between the Church of Ely and its encroaching neighbours preserved in the 12th century *Inquisitio Eliensis*.<sup>2</sup> In this case, moreover, the existing MS. is of later date and the reputation of this Church is somewhat indifferent<sup>1</sup>.

Whether the famous *Clamores* and *Invasiones* appended to the existing official digests of the Domesday Survey can be properly regarded as rudimentary pleadings is at present merely a matter of learned speculation<sup>3</sup>. It may be conceded, however, that formal pleadings are referred to, if they are not actually recited, in the famous Record<sup>4</sup>. It may be of interest to note, in this connexion, that a very simple formula of a *Calumpnia*, such as might be found in the group of Domesday inquisitions, is preserved amongst the pleadings on official Extents of forfeited lands at the close of the reign of Henry III<sup>5</sup>. It is also possible that the primitive formulas of the *Placita Aulae* connected with claims to offices in the royal household may be of great antiquity<sup>6</sup>.

Even as late as the reign of Henry II we have seen that, apart from the florid and usually suspicious narratives of contemporary chroniclers, there would be found only vague and casual references to judicial proceedings from which some disconnected fragments of formal pleadings may be recovered.

A few of these, it is true, are of exceptional interest, such as the recital of certain pleadings before the royal commission of enquiry as to the misgovernment of the sheriffs in 1170<sup>6</sup>.

Slightly later we find in a well-known collection of Extents of escheated lands, the recital of proceedings before the justices itinerant in which a technical formula may now and then be recognized<sup>7</sup>.

<sup>1</sup> The Writs are printed in Hamilton's edition, together with a *Commemoratio placiti*, &c.

<sup>2</sup> It is not difficult to infer that such a high authority as Mr J. H. Round inclines to credit the existence of contemporary pleadings, as did also at one time the late Mr Elton. The learned author of the *Placita Anglo-Normannica* assumes the fact without any hesitation.

<sup>3</sup> Cf. *D. B.* I. 377, I. 164, I. 56 b, II. 99 b, II. 449.

<sup>4</sup> Hunter, *Rotuli Selecti*, p. 85.

<sup>5</sup> Cf. *Red Book*, p. 755 sq.

<sup>6</sup> *Red Book*, pp. ccclxix and ccclxxviii, where the count and pleadings may be distinguished as follows:

- (1) *xv. dies ante Purificationem, &c. Servientes Comit̃s de A. ceperunt, &c. sicut nil comiti debui.*
- (2) *Respondent ballivi Comit̃s quod pro defectu servicii C. ceperunt, &c.*
- (3) *Et ipse confitetur et conqueritur de C.*

In another case we have apparently a recital of pleadings in a seignorial court with the refrain, *Et ideo reddidit (dederunt) domino per veredictum (judicium).*

<sup>7</sup> *Rotuli de Dominabus* (1185), L. T. R. Miscellaneous Rolls, Bdle. I. Cf. *Et hoc fuit prius ostensum justiciariis. A. invenit plegios habendi warrantum suum iij septimanis post festum Sancti Michaelis ad Scaccarium. Plegii—.*

Finally we may remember that long before the close of the same reign pleadings recited in a diplomatic formula of great antiquity were officially recorded<sup>1</sup>. These "Final Concords," in which, as in the Old English convention, the inserted formulas of a normal diplomatic instrument can be easily recognized, may be regarded as one of the many official devices for preserving a formal record of judicial pleadings which have been ordained by national custom and refined by legal ingenuity. In like manner we have witnessed the resourcefulness of royal clerks in the official treatment of the Domesday inquisition, and further evidence in point would be afforded by the apt memoranda recording current fiscal determinations in the earliest Exchequer court rolls<sup>2</sup> and in the Chancery estreats<sup>3</sup>.

The clerical licence to which allusion has been made is a subject which seems to stand in need of a closer investigation. In spite of some authoritative statements and many plausible surmises, it cannot be fairly concluded that the procedure adopted for the purpose of placing on record the pleadings in an English court of law during the 13th century has been exhaustively expounded<sup>4</sup>.

While this professional problem is one with which we are not here concerned, the uncertainty which appears to prevail upon the point in question may help to explain the neglect of the diplomatic study of a certain class of judicial proceedings during the above period. In the first place we may notice that besides the usual method of recording pleas of the Crown held by justices itinerant or royal commissioners, the same end might be attained by an unconventional record which, like the Fine itself, is based upon some principle of diplomatic composition. Thus in the case of the judicial enquiry ordered for the purpose of verifying the corrodies claimed by the Templars at the suppression of the Order, a special formula is employed as a more advantageous method of displaying the documents exhibited to the Court<sup>5</sup>. Whether these findings were tested by further judicial proceedings

<sup>1</sup> Cf. above, p. 313 n.

<sup>2</sup> Cf. L. T. R. Miscellaneous Rolls, Bdle. 1. Nos. 3 and 4.

<sup>3</sup> Cf. *Rotuli de Liberate, &c. regnante Johanne* (Record Commission).

<sup>4</sup> Mr G. J. Turner's edition of the *Brevia Placitata* has not yet unfortunately been published for the Selden Society. A learned essay on the subject has recently been published by Mr W. S. Houldsworth.

<sup>5</sup> Cf. Cole, *Select Documents*, p. 139 sqq. where the Record is made up as follows:

- (1) The royal commission.
- (2) The petition for allowance supported by production of the original deed of corrody.
- (3) The judicial order for inquisition to be made thereon.
- (4) The Return to the inquisition (recited).
- (5) The decision of the commissioners.

has not been ascertained, but in the somewhat similar procedure adopted in connexion with the forfeited lands of rebels and aliens during the 13th and 14th centuries, we find, in addition to petitions, with the decisions thereon<sup>1</sup>, more than one style of recorded pleadings of a more conventional nature<sup>2</sup>.

In the second place we may notice that, even when the pleadings recorded in certain of these early Eyre Rolls are presented in a purely conventional form, they must in some instances be compared with precedent inquisitions or other records for the full elucidation of their purport. Thus the records preserved in the Assize Rolls relating to "Rageman" and "Kirkby's Quest" are at times obscure without such cross-references. We may in fact suspect that in the case of these statutory and extensive inquisitions and the resultant judicial proceedings, the facts at issue being recorded *specialiori modo* in the Inquisition itself (which we know was in the hands of the justices), the form of the pleadings was influenced by this consideration<sup>3</sup>. On the other hand in the case of casual and local commissions ordered by the Crown, or by the justices for their fuller information, the actual inquisition is frequently recited *verbatim*, the pleadings thereon being thus rendered fully intelligible.

It will indeed be evident from an inspection of the certified "Records" of Civil Pleas as late as the close of the 14th century that

<sup>1</sup> As in the fragment of a roll of proceedings, formerly preserved amongst the early Eyre Rolls of the reign of Henry III, which was discovered by Major Poynton and which presents the following formula:

*A. petit—terre in X. que capta est in manu domini Regis, &c. ea ratione, quod habuit de dono B. qui prius habuit de dono domini Regis, &c. Et nichil aliud habet extra regnum Angliæ.*

<sup>2</sup> Cf. Hunter, *Rotuli Selecti*, where we have in cases brought before the court:

- (1) The king's writ to put in force the provisions of the statute.
- (2) The commission to the justices.
- (3) The verdict or presentment of the jurors.
- (4) The pleadings in conventional form.

<sup>3</sup> Cf. above, p. 302, for the connexion between these inquisitions and the subsequent proceedings thereon. Cf. also the remarkable fragment of the original "Hearing Notes" of Kirkby's Commission for Cornwall in L. T. R. Miscellaneous Rolls ½ and the relationship of these to the judicial proceedings during the same eyre recorded in Assize Roll 116. The procedure thus indicated would seem to have been as follows:

- (1) The Writ.
- (2) The Form of Inquisition.
- (3) The Returns of the local jurors in the shape of presentments.
- (4) Pleadings on the same before the commissioners.
- (5) Proceedings of the commissioners recording (a) Precepts issued in connexion with the above inquisitions and pleadings, (b) Memoranda of matters to be reported to the King's Council, (c) Recognizances of persons implicated, (d) A register of tallies outstanding in the hands of the sheriffs.



in the hands of an experienced prothonotary, the briefest memoranda were sufficient for the purpose of reconstructing the conventional pleadings upon a formal writ or bill. The notes made for this purpose were endorsed on the several instruments by which process was effected, and then, even if the Roll of the year and term were not available, these could be expanded at pleasure in the form of conventional pleadings after the lapse of many years<sup>1</sup>.

By the time that judicial pleadings have attained their fullest development as an exotic form of Record composition, the special inquisition has fallen into disuse as a ministerial or political expedient, to be replaced by an elaborate indictment<sup>2</sup> or else by a Special Commission, the technical findings of which can be viewed with greater deliberation in the congenial atmosphere of the Chancery or the Exchequer<sup>3</sup>.

<sup>1</sup> For examples, see the Chancery Miscellaneous Files (formerly "County Placita"), e.g. Bundle 47, File 2, No. 21, and Bundle 48, File 2, No. 19. Cf. also the prominent part played by the antecedent inquisition, or presentment, in the Records of the proceedings taken under the Statute of Labourers (e.g. Assize Rolls 170, 312, 313). The same technical skill in expanding these brief notes of pleadings may have been possessed in an equal degree by the officials of the local courts and special tribunals such as the Marshalsea (cf. the Record of proceedings in the Nottingham County Court, 19 Edward I, amongst the "County Placita," and the Records of *Placita Aule* in several counties in the same collection). From the reign of Edward III, however, the Records subsidiary to pleadings *coram Rege* were apparently preserved in "bags" for each session and noted in the Controlment Rolls.

<sup>2</sup> Cf. "Ancient Indictments" *passim* and the elaborate informations *pro Rege* entered at full length in the Controlment and Crown Rolls, based on sworn depositions the originals of which were formerly preserved. The proceedings in the "State Trials" of the period 1450—1600 seem to have been preserved *specialiori modo* in the *bagae de secretis*, the precursors of the "dossiers" still preserved amongst the Treasury Solicitor's Records.

<sup>3</sup> e.g. Revenue cases or matters of public policy in which the inquisitions or informations are recited at great length. Instances of these narrative enrolments will be seen in the cases of the Marian exiles and Polydore Vergil printed by Mr I. S. Leadam in *Transactions R. Hist. Soc.* N. S. XI. and XIX.

## APPENDIX 1<sup>1</sup>.

### A CLASSIFIED TABLE OF DIPLOMATIC INSTRUMENTS.

#### I. DIPLOMATIC DOCUMENTS.

##### (i) *OFFICIAL INSTRUMENTS.*

##### A. Royal Charters (Grants).

##### 1. Anglo-Saxon (597—1066)<sup>2</sup>.

(a) *General Form* (Land-bocs).

(b) *Special Forms* (Foundation, grant of Liberties, exemption from Taxation, &c.)<sup>3</sup>.

##### 2. Anglo-Norman and early Angevin (1066—1200).

(a) *General Form* (Feoffment).

(b) *Special Forms* (Free-Alms, Liberties, Assart, &c.).

##### 3. Later Charters (1200—1516)<sup>4</sup>.

(a) *General Form.*

(b) *Special Forms:*

Incorporation<sup>5</sup>.

Fee-Farm<sup>6</sup>.

Office.

Market.

Fair.

Disafforestation<sup>7</sup>.

Imparking<sup>8</sup>.

<sup>1</sup> For examples of the following selected forms of diplomatic instruments see *Formula Book* (*passim*).

<sup>2</sup> Confirmations, writs (vernacular) and private conventions will be found under their appropriate headings.

<sup>3</sup> These are mentioned as the most familiar, if not the most characteristic instruments for this period. The same remark applies to the selections which follow.

<sup>4</sup> The date of the abandonment of separate enrolments; but the charter had long since ceased to possess a really distinctive character.

<sup>5</sup> This term has also been applied to the later incorporations by Letters Patent.

<sup>6</sup> The words *ad feodi firmam* do not seem to be essential in early times.

<sup>7</sup> Usually in the limited sense of exemption from forest jurisdictions or with special reference to the grievances mentioned in the Forest charter.

<sup>8</sup> More correctly "enclosing a park," this term being familiarly applied to the impounding of stray animals.

Warren.  
 Commutation of Service<sup>1</sup>.  
 Warranty<sup>2</sup>.  
 Special Reservations<sup>3</sup>.  
 Assignment.  
 Composite Charter<sup>4</sup>.

## B. Royal Charters (Confirmations).

- (a) *General Form* (597—1225)<sup>5</sup>.
- (b) *Inspeximus* (1225—1516)<sup>6</sup>.
- (c) *Special Forms*:
  - Pancarta<sup>7</sup>.
  - Confirmation of private donations.
  - Innovation of earlier Charters (royal)<sup>8</sup>.
  - Innotescimur*<sup>9</sup>.
  - Confirmation of grant under smaller seal.
  - Confirmation of an earlier instrument with the clause *Licet* added to condone dis-user<sup>10</sup>.

## C. Writs and Letters under the Great Seal.

### 1. Royal Writ (Executive).

- (a) Old English<sup>11</sup>.
- (b) Anglo-Norman (bi-lingual).
- (c) Anglo-Norman (Latin)<sup>12</sup>.
- (d) Transitional<sup>13</sup>.
- (e) Ministerial or Departmental<sup>14</sup>.

<sup>1</sup> *e.g.* money-payments for a nominal rent, or a special tribute such as hawks, &c. for which a scale of values existed.

<sup>2</sup> To ensure the fulfilment of the grant or its equivalent.

<sup>3</sup> *e.g.* in the case of grants to a prince royal to provide for reversion to the Crown.

<sup>4</sup> Including more than one subject.

<sup>5</sup> The Anglo-Saxon forms are almost invariably suspicious. For the conventional form 1066—1225 cf. above, p. 240 sq.

<sup>6</sup> The charter form to be distinguished from that of Letters Patent.

<sup>7</sup> The term is usually applied in this country to private compilations which have little diplomatic value.

<sup>8</sup> See above, p. 240.

<sup>9</sup> See above, p. 243.

<sup>10</sup> *Licet plene usi non fuerint vel abusi*. With application both to the past and future.

<sup>11</sup> *i.e.* the vernacular writs of the Confessor as to which cf. above, p. 201 sq.

<sup>12</sup> The conventional writ of the 12th century.

<sup>13</sup> *i.e.* between the last-named and the Letters Patent and Close at the beginning of the 13th century.

<sup>14</sup> Including many writs not regularly enrolled in the Chancery Rolls but preserved in Files or entered in Curial Records, especially the Memoranda Rolls of the Exchequer, together with some quasi-legal writs.

2. Royal Writ (Legal)<sup>1</sup>.

(a) "Original."

(b) "Judicial."

## 3. Letters Patent.

(a) *General Form* (1199—1907).(b) *Special Forms*<sup>2</sup>:

\*Grant (Feoffment), \*Grant (Lease), \*Grant (Pension), \*Grant (office), Grant (Liberties), \*Creation, \*Commission, \*Appointment<sup>3</sup>, Commission of Array<sup>4</sup>, Confirmation of private donations<sup>5</sup>, *Inspeximus*<sup>5</sup>, *Innotescimur*<sup>5</sup>, \*Exemplification, \*Constat, Letters obligatory<sup>6</sup>, Acquittance<sup>6</sup>, Assignment<sup>6</sup>, Protection (simple)<sup>7</sup>, Protection (with clause *Volumus*)<sup>8</sup>, Safe-Conduct<sup>9</sup>, Free Pass<sup>10</sup>, \*Pardon<sup>11</sup>, Release (from prison)<sup>12</sup>, Exemption<sup>13</sup>, \*Licence (to alienate in mortmain), \*Licence (to "crenellate")<sup>14</sup>, \*Licence (to hunt or hawk), \*Licence (for "artillery")<sup>15</sup>, \*Letters of Denization,

<sup>1</sup> For the forms of pleadings upon these writs cf. above, p. 311. They are derived in point of diplomatic construction from the preceding form (Executive).

<sup>2</sup> Omitting those in use during the reign of John which have only a contemporary interest (cf. Hardy, *Rot. Pat.* Preface), together with such artificial forms as are denoted by the mediaeval terminology applied to the various "Letters" (e.g. "commendatory," "deprecatory," "excusatory," "monitory," "mandatory," &c.). Those marked with an asterisk are found in the later period in one form or another.

<sup>3</sup> e.g. of Collectors, &c. of taxes (*Assignavimus*). Also of proctors for diplomatic missions (*Constituimus*). Appointments of Customers and Escheators were entered on the Fine Rolls.

<sup>4</sup> Other forms under both the Great and Smaller Seals were used for this purpose (cf. Palgrave, *Parliamentary Writs*, II. (i)).

<sup>5</sup> Cf. the charter forms for a like purpose.

<sup>6</sup> Connected with the financial affairs of the Crown and apparently modelled chiefly on private instruments.

<sup>7</sup> Chiefly for suspension of legal processes against those engaged in the King's wars or service; but also granted to merchants and even for the purpose of enabling the religious to ask alms.

<sup>8</sup> Cf. other variants such as *Quia moratur*, *Profecturus*, and *Nolumus*.

<sup>9</sup> This was commonly used in the sense of a Protection. In the modern sense of the term, examples abound in the "Treaty Rolls" during the wars with France and Scotland and in the "Protection Rolls" of Edward I.

<sup>10</sup> e.g. to cross bridges without toll. Similar forms of exemption were frequently granted by later warrants.

<sup>11</sup> "General" and "special" (cf. the later "conditional" form).

<sup>12</sup> Also effected by Letters Close. *Deliberare* is the essential word.

<sup>13</sup> Relieving subjects from liability to hold onerous (though distinguished) offices.

<sup>14</sup> More than one form was used according to the extent of the fortification desired (cf. Turner, *Domestic Architecture*, I. Appx.).

<sup>15</sup> The parent of the modern gun-licence.



Letters of Reprisal (Marque)<sup>1</sup>, \*Invention<sup>2</sup>, Writ of Assistance<sup>3</sup>, Prohibition<sup>4</sup>, \*Revocation<sup>5</sup>, \*Proclamation<sup>6</sup>, Statute<sup>7</sup>, \*Credentials<sup>8</sup>, \*Full Powers<sup>9</sup>, \*Convention (Treaty)<sup>8</sup>, \*Licence to elect<sup>10</sup>, \*Royal Assent, \*Restitution of Temporalities, \*Presentation, \*Collation.

(c) *Departmental Forms*<sup>10</sup>:

\*Grant of Arms<sup>11</sup>, Coket<sup>12</sup>, Dispensation.

4. **Letters Close.**

(a) *General Forms*<sup>13</sup>:

{ Notificatory.  
Declaratory.  
Narrative.  
Injunctive.  
Conditional.

(b) *Special Forms*:

Fiscal Writs<sup>14</sup> (*Liberate, Solvatis, Allocate, Computate, Perdonavimus*).

Summons (military).

{ Summons (parliamentary).  
Election.  
Wages (Parliamentary).  
Prorogation<sup>15</sup>.

<sup>1</sup> These were properly issued by the Lord Admiral under the authority of General Letters Patent, cf. Prothero, *Documents* (3rd ed.), p. 464.

<sup>2</sup> The English form is best known. A licence was also conferred by Letters Close.

<sup>3</sup> Also used with Letters Close.

<sup>4</sup> e.g. to restrain the Spiritual Courts.

<sup>5</sup> i.e. of former Letters Patent.

<sup>6</sup> For Proclamation to be made. In later times the actual Proclamation though it was usually enrolled on the Patent Roll was not in a purely diplomatic form nor was it procured by the usual instruments.

<sup>7</sup> Cf. Statute of Wales (1284). Many statutes and ordinances were enrolled on the Patent Rolls.

<sup>8</sup> These instruments used in foreign diplomacy were composed in a notarial form in later times (cf. French Rolls, Hen. VII—Chas. II, and above, p. 258).

<sup>9</sup> For the sequence of this and the following ecclesiastical forms, see above, p. 257 sq. and *Formula Book*, Nos. 88—93.

<sup>10</sup> See above, pp. 247, 259.

<sup>11</sup> Issued by a King at Arms.

<sup>12</sup> Issued by the Customers at the out-ports under a special seal (Coket) as indicated in the clause announcing sealing. Similar instruments under the Great Seal were procured by the household officers in connexion with their duties.

<sup>13</sup> Cf. above, p. 254 sq. These are enrolled on the Close Rolls.

<sup>14</sup> Cf. above, p. 256 and *Formula Book*, Nos. 77—81. They are also specially enrolled.

<sup>15</sup> See *Formula Book*, p. 82, for the sequence of these instruments.

5. Miscellaneous Letters and Writs<sup>1</sup>.Letters of Exchange<sup>2</sup>.Scutage Writs<sup>3</sup>.Writs of Redisseisin<sup>4</sup>.

## D. Writs and Letters (Missive) under the Smaller Seals.

## (a) Writs and Letters under the Privy Seal.

The Privy Seal substituted for the Great Seal<sup>5</sup>.Writ of Privy Seal (Latin) substituted for the Great Seal<sup>6</sup>." " (French) used as a missive<sup>7</sup>.Letters of " (English) " " " <sup>8</sup>(b) Letters under the Signet<sup>9</sup>.

Signet Letter (French).

" (English).

## (c) Warrants under the Sign Manual.

Sign Manual Warrant (English)<sup>10</sup>.

## (d) Special Forms of Privy Seals, Signet Letters and Warrants.

Benevolence<sup>11</sup>.Commission of Array<sup>12</sup>.Council Warrant<sup>13</sup>.Household Warrants<sup>14</sup>.Debenture<sup>15</sup>.Dormant Warrant<sup>16</sup> (Privy Seal).<sup>1</sup> These are "serial writs" forming special Chancery enrolments.<sup>2</sup> Licences (to foreign merchants, &c.) to issue letters of exchange with a proviso against exporting bullion. The Exchange Rolls are now classified as "Supplementary Close Rolls."<sup>3</sup> *e.g.* *pro habendo Scutagio*, enrolled on the Scutage Rolls (Chancery).<sup>4</sup> Entered on the Redisseisin Rolls and on the *Originalia* Rolls of the Exchequer.<sup>5</sup> An early phase noticeable during the reign of John and minority of Henry III.<sup>6</sup> *e.g.* in the Edwardian period.<sup>7</sup> The usual form in the early period.<sup>8</sup> The usual form in the later period.<sup>9</sup> An epistolary style; some are paper documents.<sup>10</sup> Cf. above, p. 262.<sup>11</sup> From Henry VI to Charles I (French and English forms).<sup>12</sup> From the Edwardian period; including impressment of shipping.<sup>13</sup> Countersigned by the Lords of the Council.<sup>14</sup> Issued by the household officers (Chamberlain, Steward, Butler, Ulnager, &c.) in connexion with the administration of their several departments.<sup>15</sup> *e.g.* of clerks of the Wardrobe, under their own seals, as certificates for payments due from that department.<sup>16</sup> Providing for continuous payment of salaries, &c. from term to term.

# E. Warrants under the Smaller Seals for Issue of the Great Seal.

## (a) Early Procedure (Henry III—1536).

Petition for Letters Patent.

Signet Letter (French, English) for issue of the Privy Seal.

Privy Seal Writ (Latin, French, English) for issue of the Great Seal.

*or* Privy Seal Bill (Latin) for the same<sup>1</sup>.

*or* Signet Bill (Latin, English) for the same<sup>2</sup>.

*or* Sign Manual Warrant (French, English)<sup>3</sup>.

## (b) Special Forms.

*Fiat*<sup>4</sup>.

Departmental Warrants<sup>5</sup>.

## (c) Later Procedure (1536—1851).

Petition<sup>6</sup>.

Reference<sup>7</sup>.

Report<sup>8</sup>.

Sign Manual Warrant<sup>9</sup>.

King's Bill<sup>10</sup>.

Signet Bill<sup>11</sup>.

Privy Seal Writ<sup>12</sup>.

## (d) Special Forms of the above<sup>13</sup>.

Signed Bill.

Immediate Warrant.

# F. Later (Secretarial) Warrants under the Sign Manual (16th—19th centuries)<sup>14</sup>.

## (a) For domestic affairs<sup>15</sup>.

<sup>1</sup> Dispensing with the Signet Letter and formal Writ of Privy Seal.

<sup>2</sup> Embodying the Petition and draft instrument for expedition.

<sup>3</sup> Usually the actual Petition or draft instrument authorized by the Sign Manual. For variants, see above, p. 263 sq.

<sup>4</sup> For Protections, Writs of *Allocate*, &c.

<sup>5</sup> Commissions and other instruments procured by officers of State (Treasurer, Treasurer at War, Lord High Admiral, Clerk of Works, &c.) under their own seals.

<sup>6</sup> For Letters Patent.

<sup>7</sup> To the Law Officers, &c.

<sup>8</sup> Of the Law Officers, &c.

<sup>9</sup> For the King's Bill.

<sup>10</sup> For the Signet.

<sup>11</sup> For the Privy Seal.

<sup>12</sup> For the Great Seal. For the latest practice, see Anson, *op. cit.* p. 55 n.

<sup>13</sup> To dispense with the usual procedure, see *Formula Book*, p. 117.

<sup>14</sup> The Royal Warrant largely supersedes the earlier formal instruments during this period, owing to the new importance of the Secretary of State's Office.

<sup>15</sup> These are chiefly preserved amongst the Domestic State Papers.

1. Royal Warrant (Latin) in the Chancery form<sup>1</sup>.
2. „ (English) in the same form<sup>1</sup>.
3. „ „ in an epistolary form<sup>2</sup>.
4. „ „

*Special* (Chancery or epistolary)<sup>3</sup> forms: \*Commissions<sup>4</sup>, \*Grants of Office<sup>5</sup>, \*Pardon<sup>6</sup>, Reprieve<sup>7</sup>, Approbation<sup>8</sup>, Warrant for Game<sup>9</sup>, to swear<sup>10</sup>, for engraving new Signets, for ambassadors' wines, &c. duty-free<sup>11</sup>, to press ships<sup>12</sup>, for civil<sup>11</sup> or military Establishments<sup>13</sup>; Licence to plead<sup>14</sup>, to print<sup>15</sup>, to kill stags<sup>16</sup>, to return to England<sup>17</sup>, to enclose<sup>18</sup>; to enter foreign service, or wear foreign orders, &c.; to search for pirates<sup>19</sup>, wreck, &c.; for denization, change of name<sup>20</sup>, to bear arms; for inventions<sup>21</sup>, to be absent from duty<sup>22</sup>.

5. Proclamation<sup>23</sup>.

6. Secretary of State's Warrants<sup>24</sup>.

<sup>1</sup> Chiefly used for procuring Letters Patent; distinguished (in English) by the precept "Our will and pleasure is"; including warrants for Creations, Writs of Error and other special judicial processes; for ecclesiastical instruments (Commendams, Dispensations, Royal Assent, &c.), Revocations, &c., &c.

<sup>2</sup> Chiefly used as missive instruments; distinguished by the address "Trusty and well-beloved," &c.

<sup>3</sup> Characteristic of the 17th and 18th centuries. Those marked with an asterisk are also largely used as warrants for issue.

<sup>4</sup> *e.g.* military down to 1794.

<sup>5</sup> *i.e.* those no longer granted by Letters Patent.

<sup>6</sup> *e.g.* Special Pardons for insertion in a General Pardon. Also conditional Pardons.

<sup>7</sup> For respite or non-execution of the death sentence.

<sup>8</sup> Of the election of Mayors, Recorders, Town-clerks, foreign agents, &c.

<sup>9</sup> For the preservation of game in a certain district by a local magnate; also for the King's game.

<sup>10</sup> To swear in household officers, &c.

<sup>11</sup> Later effected by Treasury Warrant.

<sup>12</sup> In much the same form under Charles II as under Edward III.

<sup>13</sup> Later procured by the Secretary at War.

<sup>14</sup> For King's Counsel to take private briefs.

<sup>15</sup> A "privilege" in the nature of a monopoly.

<sup>16</sup> Usually for keepers of royal forests.

<sup>17</sup> For Jacobites and other political offenders.

<sup>18</sup> Paths and high-ways, &c.

<sup>19</sup> *e.g.* for East India-men.

<sup>20</sup> Including that of a foreign vessel (prize).

<sup>21</sup> Pending the grant of Letters Patent.

<sup>22</sup> For Secretaries of State or for sheriffs, &c. to reside outside their counties.

<sup>23</sup> See above, p. 330, n. 6.

<sup>24</sup> For search, apprehension, and commitment of suspected persons; to search the Presses for treasonable documents; to prevent duels; to keep in custody; to deliver to messengers; to "take up" witnesses; to admit a prisoner's friends; to discharge from custody; for the protection of individuals. All of the above were attested by the Secretary of State.



## 7. Secretary of State's departmental Warrants.

*Special Forms*: Pass<sup>1</sup>, Pass-port<sup>2</sup>, Post-warrant<sup>3</sup>, Caveat<sup>4</sup>.

## (b) Foreign affairs.

8. Pass. (For envoys and subjects travelling abroad<sup>5</sup>.)9. Credentials. (Letters of credence for envoys to foreign courts<sup>6</sup>.)10. Letter of Recall (or "Revocation") for the same<sup>7</sup>.11. Full Power<sup>8</sup>.

(a) Notarial Form.

(b) Chancery Form.

12. Certificate for an envoy to kiss hands on his departure or return<sup>9</sup>.13. Commission for a Consul<sup>10</sup>.(c) Royal Household<sup>11</sup>.(d) Delegated authority to local officials<sup>12</sup>.G. Royal Letters<sup>13</sup>.

## 1. King's Letters (Mediaeval).

<sup>1</sup> A safe-conduct or licence to travel (for discharged soldiers, foreign agents or refugees, emigrants, &c.).

<sup>2</sup> For ships. Addressed to admirals and governors of forts, &c.

<sup>3</sup> Either an order for the supply of post-horses, &c. to king's messengers, &c. or a "bill of craving" allowed to ambassadors, &c. for "postages," &c. generally known as his "extraordinaries."

<sup>4</sup> A minute to suspend the placing of the Signet to instruments intended to pass the Great Seal in view of official or private interests to the contrary.

<sup>5</sup> Latin (till middle 18th cent.) and English; the former in a notarial style as letters commendatory addressed to all foreign princes, &c.

<sup>6</sup> Later in an epistolary style. Also "Recredentials" for the same.

<sup>7</sup> In a two-fold form (a) addressed to the envoy, enclosing (b) an intimation to the foreign court that his services are required elsewhere.

<sup>8</sup> Originally a commission appointing a royal proctor. The essential words were "plenam potestatem...communicandi, conferendi et concludendi...spondentes,...in verbo principis quaecunque,...nostro nomine transigentur,...rata, &c. habituros."

<sup>9</sup> Countersigned by the Secretary of State, but not under the Sign Manual. This formality was probably to indicate the period of employment and consequent allowances.

<sup>10</sup> Commissions were also issued to Secretaries of Legation. Two forms of Consular commissions were used, (a) for a new port, with a preamble setting forth the advantages to Trade from the appointment, (b) for an existing port, omitting this preamble.

<sup>11</sup> Addressed to the Lord Chamberlain's and Lord Steward's departments, including Warrants for servants, stables, public funerals, &c., provisions, swans, playhouses, &c.

<sup>12</sup> e.g. prerogative of Pardon exercised by Colonial governors; Passes issued by Consuls; Warrants of Justices of the Peace, &c.

<sup>13</sup> These do not include (according to the usual practice) letters addressed to the Sovereign. The former should be classified from a diplomatic point of view amongst semi-official documents preserved amongst State Papers as "Royal Letters" or official "In-Letters."

- (a) Early style (12th and 13th centuries) (Latin and French)<sup>1</sup>.
- (b) Later style (14th and 15th centuries) (Latin, French and English)<sup>1</sup>.
- 2. **King's Letters** (Modern)<sup>2</sup>. (Latin, French and English<sup>1</sup>.)
  - (a) Ceremonious (Latin, French).
  - (b) Familiar (French, English).
- 3. **Secretary's Letters.** (English.)
  - (a) In the King's name<sup>3</sup>.
  - (b) In the Secretary's name<sup>4</sup>.
- 4. **Departmental Letters**<sup>5</sup>. (English.)

#### H. Departmental Instruments<sup>6</sup>. (English.)

- 1. The Minute<sup>7</sup>.
- 2. The Reference.
- 3. The Report.
- 4. The Order.
- 5. The Instruction.
- 6. The Warrant.
- 7. The Commission.
- 8. Miscellaneous Instruments<sup>8</sup>.

#### (ii) *SEMI-OFFICIAL INSTRUMENTS.*

#### A. **Conveyances**<sup>9</sup>. Deed Polls<sup>10</sup>, Indentures<sup>11</sup>, Releases<sup>12</sup>, Fines<sup>13</sup>, Leases and Pensions<sup>14</sup>.

<sup>1</sup> See above, p. 270 sq.

<sup>2</sup> These are the "Royal Letters" addressed to foreign potentates on ceremonious occasions which are preserved under that title amongst the Foreign State Papers.

<sup>3</sup> In the style of Signet Letters (see above, p. 275).

<sup>4</sup> One of the forms of the official letter still employed.

<sup>5</sup> From a board of officers or individual minister or agent. Another form of official letter still in use.

<sup>6</sup> Special forms or developments of the departmental letter.

<sup>7</sup> For this and the sequence of forms that follows, see above, p. 276 sq.

<sup>8</sup> *e.g.* Certificates, Debentures, Cartels, &c.

<sup>9</sup> Enrolled or filed by favour or common practice in the Rolls of Chancery (Close, Fine) or King's Courts.

<sup>10</sup> Feoffments.

<sup>11</sup> Lease and Release, Bargain and Sale.

<sup>12</sup> Acquittances, Quit-claims (in favour of the Crown), Surrenders of Office, &c.

<sup>13</sup> Concordes made and enrolled in Courts of Law.

<sup>14</sup> Conventual Leases, Pensions and Corrodies, &c.

- B. **Contracts**<sup>1</sup>. Bonds<sup>2</sup>, Recognizances<sup>3</sup>, Assignments<sup>4</sup>, Indentures<sup>5</sup>, Oaths<sup>6</sup>.
- C. **Certificates**. Notifications<sup>7</sup>, Acknowledgments<sup>8</sup>, Awards<sup>9</sup>, Miscellaneous<sup>10</sup>.
- D. **Letters and Reports**<sup>11</sup>.
- E. **Petitions and Addresses**<sup>12</sup>.
- F. **Notarial Instruments**<sup>13</sup>.

(iii) *DIPLOMATIC DOCUMENTS* (Private)<sup>14</sup>.

- A. **Conveyances** (original and derivative).
  - 1. **Foefments**. Fee-simple, Fee-tail, Demise for life, Demise for years, Fee-farm, Frankalmoigne, Mortgage, Will, Manumission, Exchange, Partition, Rent-charge, Pension, Corrody or Pit-tance, &c.
  - 2. **Confirmations**.
  - 3. **Releases**. Quit-claim, Surrender, &c.
- B. **Contracts**. Concord, Use, Simple bond, Defeazance, Letters of Attorney, Letters of Proxy, Assignment, Oath, Fealty, Ho-mage, &c.

<sup>1</sup> Enrolled, chiefly, in the Close Rolls or Exchequer Memoranda Rolls.

<sup>2</sup> Jewish "stars," obligations to "royal merchants," Statutes Staple, &c.

<sup>3</sup> For due performance of office, &c.

<sup>4</sup> Of interests, appointment of attorneys, proxies, &c.

<sup>5</sup> Articles of Clerkship, Disentailing Deeds, Charitable Uses, Indentures of War, for safe transfer of jewels, records, &c.

<sup>6</sup> Official or judicial and political (enrolled or entered as precedents).

<sup>7</sup> For naturalization, change of name or residence, sacramental certificates, &c., "Deputations" of persons to perform the duties of certain offices on behalf of Household officers and others.

<sup>8</sup> *e.g.* by married women under the Act of William IV.

<sup>9</sup> Enclosure Awards, &c.

<sup>10</sup> By local officers, &c.

<sup>11</sup> These written by private individuals and addressed or communicated to ministers form a large portion of the State Paper collection. Their semi-official character is due to their having been filed or entered in the Archives.

<sup>12</sup> Classified here for the same reason as above. For Petitions in Chancery see above, E. (a) and (c).

<sup>13</sup> Executed by order of the Crown or procured by royal officers in connexion with diplomatic correspondence or semi-official business. Also occasionally enrolled from an ecclesiastical source. Later a large mass of Admiralty Records of this nature is preserved.

<sup>14</sup> For examples of the following types see Madox *Formulare Anglicanum*, and Calendar of Ancient Deeds (Rolls). Many collections of formulas exist both early and modern, printed and manuscript. It has been explained elsewhere that these instruments and letters have found a place amongst official documents by casual or arbitrary means, and we are not directly concerned here with their evolution or significance.

C. **Certificates.** *Notitia*, Receipt or acquittance, &c.

D. **Letters**<sup>1</sup>.

E. **Notarial Instruments**<sup>2</sup>.

## II. MINISTERIAL AND JUDICIAL PROCEEDINGS.

(i) *ROYAL SURVEYS, INQUISITIONS, AND ASSESSMENTS*<sup>3</sup>.

(a) Agrarian Surveys.

(b) Fiscal Inquisitions and Assessments.

(1) Assessments on the Hide (Geld Rolls, Inquisitions of Hidage, Hidage Books, Inquisitions of Carucage, Local Assessments, &c.).

(2) Assessments on the Knight's Fee (Scutage, Aid, &c.).

(3) Decimal Assessments, &c. (Tithe, Poundage, Capi- tage, &c.).

(c) Feudal Inquests (Escheats, Proofs of Age, Sergeanties, Knighthood, Lunacy, *Ad quod Damnum*, Regards of the Forest, &c.).

(d) Statutory and Political Inquisitions.

(ii) *ACCOUNTS*.

A. **Royal Accounts.**

(a) Original.

(1) Subsidiary<sup>4</sup> ("Particulars" or vouchers).

(2) Final<sup>5</sup> (as engrossed for audit).

(b) Enrolments.

(1) Exchequer (Revenue) Rolls<sup>6</sup>.

(2) Departmental Accounts<sup>7</sup>.

<sup>1</sup> From one private individual to another.

<sup>2</sup> Indulgences, &c. casually deposited in official custody.

<sup>3</sup> For examples of these Records, see *Formula Book*, Part II.

<sup>4</sup> The details in the ledger or sub-accountant's return, rarely preserved and referred to in the final account as "Particulars."

<sup>5</sup> Summarizing the above in a conventional form.

<sup>6</sup> *i.e.* Pipe Rolls, Foreign Rolls, Receipt and Issue Rolls, Declared Accounts. The Pipe Roll itself embodies returns made to the Summonses of the Exchequer.

<sup>7</sup> *i.e.* Journals, Ledgers, &c. of the several Departments of State.



(c) Estreats (or Parcels)<sup>1</sup>.

(d) Precedents<sup>2</sup>.

**B. Private Accounts<sup>3</sup>.**

(iii) *JUDICIAL INQUISITIONS.*

(a) Original Writs.

(b) Judicial Writs.

(c) Pleadings.

<sup>1</sup> Abstracts communicated by one department to another or preserved for convenience of reference.

<sup>2</sup> *i.e.* Compilations or statistics entered in various Registers such as the "Miscellaneous Books" of the Exchequer departments.

<sup>3</sup> Usually following the same forms as Royal Accounts (a) and (d) and to be regarded (like private deeds and correspondence) as casually deposited in the Archives.

## APPENDIX II.

### *Early Diplomatic Criticism.*

Numerous instances of diplomatic criticism could probably be found in mediaeval histories or chronicles in addition to the following passages to which reference was made in the text<sup>1</sup>.

Next to the pseud-Ingulf and the chronicler of Battle, the author of the *Historia Monasterii Sancti Augustini* is the most explicit of our mediaeval commentators upon the Old English diplomata. Although the *naïveté* of this writer's explanations may provoke a smile, we should really be grateful for any explanation at all. It was in connexion with the foundation charters of this church that a hot dispute between the Abbot and the Primate was brought before the Roman *Curia* in the reign of Henry II<sup>2</sup>. Fortunately for us this local rivalry caused one of the greatest of the Canterbury scholars to take part in the diplomatic discussion concerning the validity of the above "charters." This was Gervase the historian, who remarked<sup>3</sup> in connexion with the famous instruments which still occupy the place of honour in our *Codices*<sup>4</sup>, that the oldest *erat rasa et subscripta, ac si esset emendata, et absque sigillo*, whilst the next in date *multo erat recentior, de qua bulla plumbea..., nova valde, dependebat*. He also notes that objection was made to the material of the *bullæ* and to the phraseology which *a Romano stilo dissona videbatur*. The History of Ramsey, compiled in the 13th century, preserves some extremely curious notices of Anglo-Saxon charters, including an explanation of the absence of seals which apparently comes from the same source as that previously referred to in connexion with the works of the pseud-Ingulf and Thomas of Elmham<sup>5</sup>.

Another instructive topic of early diplomatic criticism is found in the discussion by mediaeval writers of the admissibility of Latin versions of Old English charters. Here, whilst admitting the possibility of a certain amount of scepticism being excited by the non-production of vernacular deeds, the inconvenience of reference to these barbarous instruments<sup>6</sup> is held to justify

<sup>1</sup> P. 185.

<sup>2</sup> *Hist. Mon. S. Aug.* (Rolls), p. 118.

<sup>3</sup> Gervase, I. 296 (Rolls ed.).

<sup>4</sup> C. S. I.

<sup>5</sup> *Chron. Rames.* pp. 65, 161, and above, p. 209 sq.

<sup>6</sup> Some instructive comments on the etymology of the place-name Thorney will be found in W. Malmes. *Gest. Pont.* 326; *Liber de Hida*, 182; *Chron. de Abingdon*, II. 262; *Polychronicon*, v. 426 (cf. C. S. 1228, and *Ordin. Facs.* Part II. Preface), throwing some light on the authenticity of a supposed 8th century charter (C. S. 245).

an idiomatic translation into Latin. In other cases, however, the vernacular is preserved alongside of the version to satisfy any scruples that may be entertained by the parties concerned.

In other cases, however, the commentaries of mediaeval writers will be found to be of very little value. Heming, the faithful and industrious cartographer of the church of Worcester, was apparently unable to distinguish in every case between a genuine document and a forgery, and the same remark will apply to the equally ingenuous compiler of the *Textus Roffensis*. Again, Matthew Paris, who may be regarded as the type of the scientific historian of his age, did not hesitate to accept the mythical origins of the earliest diplomata of his own house<sup>1</sup>.

Although the inclusion of so many worthless forgeries in our printed *Codices* must deter us from passing any harsh judgment on the critical intelligence of the mediaeval historian, we may feel some surprise and impatience at the general indifference displayed by these learned clerks for diplomatic niceties. An archdeacon, for instance, should surely have known better than to certify to the Pope that a disputed charter of King Edgar appeared to be genuine because it was sealed with the seals of that king, of archbishop Dunstan and of Alfred, duke of the Mercians<sup>2</sup>. Nevertheless the mere fact of these forgeries being questioned is of interest. Still more interesting is the action taken by the Roman *Curia* in the case of a forged bull in the year 1198, the canons of diplomatic criticism that were laid down on this occasion being singularly valuable<sup>3</sup>. A little later we have another interposition by the same authority, in the famous suit between the bishop of Worcester and the Abbot of Evesham. On this occasion a commission was issued for the examination of certain suspected charters which purported to have been procured by bishop Egwin in the reign of King Offa<sup>4</sup>.

At the same time it may be necessary to distinguish between the critical capacity of the monkish historian and that of the official scribe. The knowledge displayed by writers like the author of the *Dialogus de Scaccario*, Glanvill and Bracton<sup>5</sup> is quite remarkable. This knowledge is even shared by the clerks who drafted ordinances of Parliament<sup>6</sup> or entered royal letters in the Chancery rolls<sup>7</sup>.

<sup>1</sup> *Gest. Abbat.* I. 39; *Chron. Major.* VI. A more critical account is, however, found in *Gest. Abbat.* I. 151, and II. 262.

<sup>2</sup> *Rot. Chart.* I. xxxv. n. 6; Hickes, *Dissert. Epist.* p. 71.

<sup>3</sup> Potthast, No. 365; Giry, *Man. de Dipl.* p. 682 sq.

<sup>4</sup> *Hist. Evesham* (Rolls), pp. xviii, xix, 17, 193.

<sup>5</sup> Cf. Rolls ed. III. 208, VI. 140 sq.

<sup>6</sup> See the Indexes of the Statutes and Rolls of Parliament and cf. *Owens College Historical Essays*, p. 193 sq.

<sup>7</sup> Above, p. 230.

## APPENDIX III.

### *The Charters of King Æthelstan.*

This comparatively short reign of less than 15 years has enriched our Codex with upwards of 100 diplomata of which, however, about a third are negligible forms<sup>1</sup>. Of the residue of credible examples, by far the largest proportion (18) is furnished by the church of Winchester, whilst Abingdon (12), Malmesbury (8), Christ Church, Canterbury (6), Exeter (5), and Worcester (4), are well represented. The following houses contribute the remaining forms: Shaftesbury (3), Wilton (3), Sherborne (2), Crediton (2), Bath, Chichester, St Augustine's, Canterbury, Chertsey, York, St Paul's, Thorney (1).

Whether we have here the bulk of the genuine diplomata executed during this reign is a question that could not easily be answered<sup>2</sup>. Those enumerated above may be regarded as permissible forms merely on account of their regular construction and without regard to their origin or probable authenticity which would depend on considerations that have been expressed elsewhere<sup>3</sup>. Fourteen of the charters of this reign purport to be in an original form, and thirteen have been reproduced in the official series of Facsimiles<sup>4</sup>, whilst the remaining specimen has recently been printed<sup>5</sup>. Of these, however, one is a later imitation<sup>6</sup>; another is an 11th century copy<sup>7</sup>, and four of the Exeter group may be regarded with a certain amount of suspicion. Twenty-eight charters of this reign are marked as suspicious in the *Codex Diplomaticus*, though one of these at least may be considered genuine<sup>8</sup>; whilst several others which have not been "starred" by Kemble might be considered doubtful.

It should be noticed, however, that two of these charters (*C. S.* 670, 671) should be dated 941 instead of 931 on the high authority of the editors of the Crawford charters, and therefore belong properly to the reign of Edmund. At the same time the obviously mis-dated charter of Edward (*C. S.* 635) has been counted amongst the charters of his successor, whilst the charter of 943

<sup>1</sup> *i.e.* imperfect, irregular or grotesque examples.

<sup>2</sup> In any case the position is in this respect the same relatively as that of other reigns.

<sup>3</sup> Above, p. 184.

<sup>4</sup> British Museum and Ordnance Office.

<sup>5</sup> Napier and Stevenson, *Crawford Charters*, pp. 5, 65.

<sup>6</sup> *Cotton Charter*, VII. 22.

<sup>7</sup> Add. Charter 19526.

<sup>8</sup> *C. D.* 660, on the authority of the learned editors of the *Crawford Charters* (p. 65).



(*C. S.* 785) attributed to this king has been ignored. Another charter marked by Kemble as suspicious (*C. D.* 740) is dated 939, but will be found to be a barefaced attempt to transfer the formulas of Æthelstan's reign to that of Ælfred<sup>1</sup>.

Below will be found a general concordance of the formulas which are found in three charter-forms of this reign. These types have been selected from a complete concordance of formulas for this reign which is excluded by considerations of space. For a similar reason the minor variants have also been excluded. Certain misplaced or imperfect specimens have been indicated by brackets.

*Specimens of Charter Formulas of the reign of Æthelstan.*

I. *Preambles.*

(a) *Flebilis fortiter detestanda*—"date et dabitur vobis<sup>2</sup>."

*C. S.* [635], 674, 677, 689, 692 (Winchester).

*C. S.* 691 (Shaftesbury).

*C. S.* 695, 696 (Sherborne).

*C. S.* 675 (Abingdon).

*C. S.* 694 (Crediton).

*Invocation.* Wanting.

*Superscription.* Ego Æthelstanus rex Anglorum per omnipatrantis—

*Subscription (Royal).* Ego Æthelstanus singularis privilegii ierarchia—

*Exposition.* Qua de re—jocunditatem.

*Dispositive Clause.* Quandam telluris particulam—

*Sanction.* Si autem, quod absit, aliquis diabolico inflatus spiritu—

*Date.* Hujus namque a Deo...inspiratæ atque inventæ voluntatis schedula—

(b) *Fortuna fallentis sæculi*—suavia audiantur<sup>3</sup>.

*C. S.* 702 (Winchester), A.D. 934.

*C. S.* 703 (York), A.D. 934.

*C. S.* 704, 718, 719 (Malmesbury), A.D. 937.

*C. S.* 745 (Wilton), A.D. 937.

*Invocation.* Wanting.

<sup>1</sup> This is presumably a composition of Æthelstan's reign assigned to that of Ælfred. For other cases of borrowed formulas see *Crawford Charters*, p. 111.

<sup>2</sup> As in *C. S.* 677 and 694, with a few variants.

<sup>3</sup> As in *C. S.* 702, with a few variants.

*Superscription* } As in (a).  
*Subscription* }

*Exposition.* As in (a).

*Dispositive Clause.* As in (a).

*Sanction.* As in (a).

*Date and Attestation.* As in (a).

- (c) *Egregius agonista sermocinatus est—properemus ad regna*<sup>1</sup>.

*C. S.* 728 (Malmesbury), A.D. 938.

*C. S.* 730, 734, 740 (Winchester), A.D. 938—9.

*Invocation.* *Absent*<sup>2</sup>.

*Superscription.* Favente superno numine basileos industrius Anglorum—

*Subscription.* Ego Æthelstanus...præfatam libertatem cum sigillo sanctæ crucis confirmavi.

*Exposition.* Quamobrem...desiderio regni coelestis exardens—

*Dispositive Clause.* Cuidam adoptivo fideli—

*Sanction.* Denique vero si quis, nobis non optantibus—

*Date.* Acta est haec præfata donatio anno ab Incarnatione—

## II. *Style.*

### (i) *Superscriptions.*

- (a) With *Flebilis*, &c. and *Fortuna*, &c.

Ego Æthelstanus, rex Anglorum, per omnipatrantis dexteram totius Brytanniæ regni solio sublimatus<sup>3</sup>.

*C. S.* [635], 674, 677, 689, 692, 694—696, 702—704, 716, 718, 719, 745.

- (b) With *Egregius*.

Favente superno numine basileos industrius Anglorum cunctarumque gentium in circuitu persistentium<sup>4</sup>.

*C. S.* 728, 730, 734, 740 (*with variants*).

### (ii) *Subscriptions (Royal).*

- (a) With *Flebilis*, &c. and *Fortuna*, &c.

Ego Æthelstanus singularis privilegii ierarchia (florentis Britanniae monarchia) præditus rex, hujus indiculi acumen

<sup>1</sup> As in *C. S.* 734, with a few variants.

<sup>2</sup> In *C. S.* 728 an Invocation has been prefixed in a later copy.

<sup>3</sup> With variants, e.g. *per omnipotentis*, in most of the *Fortuna fallentis* series.

<sup>4</sup> *C. S.* 734 has a noticeable variant.

(fulcimentum) cum signo sanctæ semperque amandæ (adorandæ) crucis corroboravi et subscripsi<sup>1</sup>.

*C. S.* [635], 674—677, 689, 691, 692, 695, 696, 702—704, 716 (*with variants*).

(b) With *Egregius*, &c.

Ego Athelstanus, rex totius Britanniae, præfatam donationem cum sigillo sanctæ crucis confirmavi.

*C. S.* [694], 728, 730, 734, 740 (*with variants*).

### III. *Expositions.*

(a) With *Fortuna*, &c.

Cujus amore felicitatis illectus, fastidiunt jam infima, dulcescunt superna, eisque pro percipiendis semperque specie infectiva fruendis<sup>2</sup>.

*C. S.* 702—704, 716, 718, 719, 745.

(b) With *Flebilis*, &c.

Qua de re, infima quasi peripsema quisquiliarum abiciens, superna ad instar pretiosorum monilium eligens, animum sempiternis in gaudiis figens, ad nanciscendam mellifluæ dulcedinis misericordiam, perfruendamque infinitæ letitiæ jocunditatem.

*C. S.* [635], 674—677, 689, 691, 692, 694—696 (*with variants*).

(c) With *Egregius*, &c.

Quamobrem...desiderio regni coelestis exardens.

*C. S.* 728, 730, 740<sup>3</sup>.

### IV. *Dispositive Clauses.*

(a) With *Flebilis*, &c. and *Fortuna*, &c.

Quandam telluris particulam meo fideli ministro...; id est... cassatarum in loco quem solicolæ...vocitant, tribuo, ut ille eam, sine jugo exosæ servitutis, cum pratis, pascuis, silvis, rivulis, omnibusque ad eam utilitatibus rite pertinentibus liberaliter ac æternaliter, quamdiu vivat, habeat; et post generalem, qui omnibus, certus incertusque, homunculis

<sup>1</sup> *C. S.* 694 has the form in (b) below. *C. S.* 718, 719, 745 are incomplete or imperfect.

<sup>2</sup> With noticeable variants in *C. S.* 719 and 745.

<sup>3</sup> *C. S.* 734 has *Quapropter* and no more. This Exposition is closely involved with the Superscription, a not infrequent occurrence.

constat transitum, cuicumque successionis hæredi voluerit imperpetuum derelinquat<sup>1</sup>.

C. S. [635], 674—677, 689, 691, 692, 695, 696, 702—704, 745

(b) With *Egregius*, &c.

Cuidam adoptivo fideli meo...vocitato ob illius amabile obsequium dignatus sum largiri...mansas agelluli ibidem ubi vulgares prisco more mobilique relatione vocitant...; cum pratis, pascuis necnon et silvis, silvarumque densitatibus: ut hæc prospere possideat ac æternaliter teneat dum hujus ævi fragilis cursum uti audebit; post se autem, veluti affirmavimus, cuicumque voluerit heredi derelinquat. Fiat etenim præfata terra ab omni servili jugo libera, exceptis his tribus, expeditione, pontis arcisve coedificatione<sup>2</sup>.

C. S. 728, 730, 734, 740.

#### V. *Sanctions.*

(a) With *Flebilis*, &c. and *Fortuna*, &c.

Si autem, quod absit, (non optamus) aliquis diabolico inflatus spiritu hanc meæ donationis breviculam infringere vel elidere temptaverit, sciat se novissima ac magna examinationis die, stridula clangente Archangeli salpice, bustis sponte dehiscentibus, somata jam rediviva relinquentibus, elementis omnibus pavefactis, cum Juda proditore, qui a satoribus pio sato "filiius perditionis" dicitur, æterna confusione edacibus ineffabilem tormentorum flammis periturum<sup>3</sup>.

C. S. [635], 674—677, 689, 691, 692, 694—696, 702—704.

(b) With *Egregius*, &c.

Si quis autem, quod non optamus, hanc nostram difinitionem, elationis habitu incedens, infringere temptaverit, perpressus sit gelidis glaciæ flatibus et pennino exercitu malignorum spirituum, nisi prius inriguis poenitentiae gemitibus et pura emendatione emendaverit<sup>4</sup>.

<sup>1</sup> With many variants, notably a curious periphrasis for *quamdiu vivat*. In some a condition is inserted, and in others the assertion *quamdiu Christianitas vigeat* occurs. The dispositive word in the Exeter group is *largitus sum*. For the special form of C. S. 694 see *Formula Book*, No. 4.

<sup>2</sup> With special variants in C. S. 734.

<sup>3</sup> This corrupt composition has numerous interesting variants, as though successive rhetoricians were bent on enhancing the impressive effect produced by the description of the Day of Judgment and Eternal Punishment for transgressors. In C. S. 716, 718, 719 and 745 (the last being incomplete), from the Church of Malmesbury we find the simple version *Quod si quisquam temptaverit, a Deo imperpetuum dampnandum sciat*.

<sup>4</sup> This is the "glacial curse" referred to above (p. 198). Cf. also C. S. 753, 756, 757, 759, 767, 781, 783, 813, 821.



*C. S.* 728, 734 (with variants in the former. A different type occurs in *C. S.* 730 and 740).

VI. *Dates and Attestations.*

(a) With *Flebilis*, &c. and *Fortuna*, &c.

Hujus namque a Deo, Dominoque Jesu Christo inspiratæ atque inventæ voluntatis scedula, anno Dominicæ Incarnationis..., regni vero mihi commissi..., indictione..., epacta..., concurrente..., kalendis..., luna..., in villa omnibus notissima (opinatissima) quæ...nuncupatur: episcopis, abbatibus, ducibus, patriæ procuratoribus regia dapsilitate ovariantibus, (tota populi generalitate sub alis regie dapsilitatis ovarianti), per-scripta est. Cujus etiam inconcussæ firmitatis auctoritas his testibus roborata constat, quorum nomina subtus characteribus depicta annotantur<sup>1</sup>.

*C. S.* [635], 674—677, 689, 691, 692, 695, 696, 702—704, 716, 718, 719. (No. 745 is unfinished.)

(b) With *Egregius*, &c.

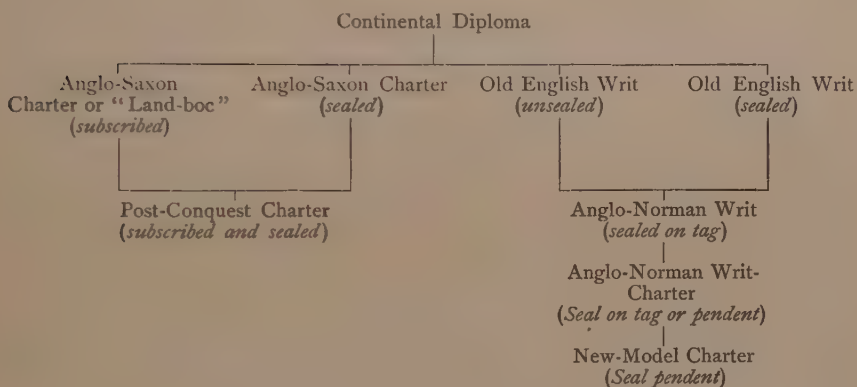
Acta est hæc præfata donatio, anno ab Incarnatione Domini nostri Jesu Christi..., Indictione....

*C. S.* [694], 728, 730, 734, [740].

<sup>1</sup> With numerous variants. See the note on this formula in *Crawford Charters*, p. 72. In *C. S.* 994 the (b) form given below is used.

## APPENDIX IV.

*Table showing the Relationship of the Pre-Conquest and  
Post-Conquest Diplomata.*



# APPENDIX V.

## Documents connected with the Issue of the Great Seal.

<i>Instrument</i>	<i>Subsidiary Documents</i>	<i>Form</i>	<i>Date of Issue</i> <sup>1</sup>	<i>Where Preserved</i>	<i>Purpose</i>
Warrant	Petition [Ditto] [Caveat] Reference [Ditto] Report [Ditto]	Original [Draft or Copy] Memorandum Minute on Petition Entry Endorsement on Petition Entry Original Draft Entry <sup>4</sup> Docquet <sup>5</sup>	[Received] Feb. 6th same date Feb. 12th — Feb. [28th] Feb. 28th same date " " — " "	Secretary of State's Office <sup>2</sup> Private custody Secretary of State's Office <sup>2</sup> With Petition Secretary of State's Office <sup>2</sup> With Petition Secretary of State's Office <sup>2</sup> " " " " Chancery <sup>3</sup>	For grant of Letters Patent As a Record To suspend proceedings For Law Officer's Opinion As a Record Law Officer's Opinion As a Record Warrant for King's Bill Duplicate As a Record For reference Dispensing with Signet Bill and Privy Seal To levy fees <sup>8</sup>
	[Immediate Warrant or Signed Bill]	[Originals]	—	Chancery <sup>3</sup>	For reference
	King's Bill	[Docquets] <sup>7</sup>	"	Secretary of State's Signet and Privy Seal Offices	Warrant for Signet Bill
	Signet Bill	Original [Docquet]	April 5th	Signet Office <sup>3</sup>	For reference
	Privy Seal Writ	Original [Docquet]	April [14th]	Privy Seal Office <sup>10</sup>	Warrant for Privy Seal
	Letters Patent	Docquet	"	Signet Office	For reference
		Original [Entry]	April 21	Chancery <sup>3</sup>	Warrant for Letters Patent <sup>8</sup>
		Docquet	"	Exchequer, &c. <sup>11</sup>	As a Record
		Docquet	"	Privy Seal Office	For reference
		Original Enrolment [Entry] Docquet	April 23 " " "	Private Custody Chancery <sup>12</sup> Exchequer, &c. <sup>11</sup> Chancery <sup>13</sup>	Grantee's Title As a Record For reference

The forms in brackets are not known to exist and did not necessarily exist in the present case.  
<sup>1</sup> The dates given here are taken from the proceedings in the case of a corporation charter in 1662 (Connecticut).

<sup>2</sup> Amongst the Domestic State Papers.  
<sup>3</sup> Amongst the State Papers Domestic and Warrants for Issues (Chancery). In the former series are preserved the Sign Manual Warrant (procured by the Secretary of State) and the King's Bill which may contain on the dorse a further Sign Manual Warrant constituting it an Immediate Warrant.

<sup>4</sup> Ecclesiastical grants were entered in separate books in the Secretary of State's Office in later times together with Scottish Warrants after the Union.

<sup>5</sup> Amongst the State Papers. Docquets were also separately preserved by the clerk of the Presentations.

<sup>6</sup> The Chancellor's *Receipt* is on the face of this writ.

<sup>7</sup> A note that the instrument had been duly entered in their respective offices according to the Act of 1535 was also endorsed on the King's Bill by the officials of the Signet and Privy Seal Offices.

<sup>8</sup> By virtue of 27 Hen. VIII c. 11.

<sup>9</sup> The procedure in this Office is very obscure.

<sup>10</sup> Most of these remained in the personal custody of the Lord Privy Seal.

<sup>11</sup> e.g. Fells and Auditors Privy Seal and Patent Books. Also abstracted in the Originalia Rolls and elsewhere.

<sup>12</sup> Now "Chancery Enrolments."

<sup>13</sup> Petty Bag, Hanaper, Crown and Patent Offices.

## APPENDIX VI.

### *FEES of the SEAL.*

The Accounts of the Clerk of the Hanaper<sup>1</sup> at the close of the reign of Edward I show that the average receipts approximated to £1000 yearly. This revenue was of course that derived from the "Fees of the Seal" alone, the greater portion being derived from writs for which the usual fee was 2s. Charters were divided into two classes, those paying the "small fee" of 16s. 4d. and those paying the "large fee" of 11 marks and 5s. It was this latter class which showed the least satisfactory returns owing to the anticipation of the revenue in the shape of Fines in the Chancery or Wardrobe by virtue chiefly of Privy Seals. It was the constant object of suitors to avoid the latter extortion and to pay only the "fees of the seal." Petitions presented to the Crown to this effect were not successful in obtaining further indulgence than a distinction between writs "of course" and writs "of grace," the former being only required to pay the "fees of the seal." As to the latter it was replied that "men might not take away the King's profit herein," though the commons had vainly endeavoured to prove that the Crown would gain by the proposed reform owing to the increase of writs and litigation<sup>2</sup>. The fact is, however, that these cash receipts, though highly useful for replenishing the privy purse or satisfying importunate creditors, were not relatively as profitable as the bargains that could be made in another direction by way of Fine. Many instances, however, occur in the Chancery Files of the period of writs issued *Pro Deo*.

<sup>1</sup> K. R. Exchequer Accounts and L. T. R. Enrolled Accounts (Hanaper).

<sup>2</sup> *Rot. Parl.* III. 241<sup>a</sup>, 376<sup>a</sup>.



## APPENDIX VII.

### *Note on the Bibliography of English Diplomatic.*

In spite of the admitted neglect of this auxiliary historical study, to which reference has been made above, the fact that materials exist for such a provisional classification as that which has been attempted below is decidedly encouraging.

At the same time it would be found that the distribution of this special literature is somewhat uneven. The "Bibliography of Bibliographies" is almost entirely supplied by foreign scholars, and the same remark must apply to the "General Authorities" in the shape of modern treatises on this subject. For the purpose of the following table, publications dealing with the diplomatic documents of the sister kingdoms are included only in the interests of a comparative method of study, though for the most part the forms of Irish and Welsh instruments differ little from our own.

The distinction that can be made between the works of an earlier and a later period of diplomatic study is noticeable and important. It will also be remembered that we owe our only Formula Books to the former period; but on the other hand we are far better equipped than our ancestors in respect of Facsimiles and adequate texts. Indeed we can afford to pay little attention to the class of Transcripts which supplied them with most of their examples and which are answerable for many misconceptions and positive errors.

On the whole, however, the strength of our native diplomatic literature will be found to lie in the special studies of a few mediaeval scholars which have been published during the last twenty years in certain journals. Besides these diplomatic essays, the cognate auxiliary studies that are concerned with the special subjects of genealogy, sigillography, numismatic, biography and linguistic are well represented in this learned periodical literature, together with the general subject of archaeology. Whether from these combined sources we can muster an adequate diplomatic apparatus is a question as to which some doubts may be reasonably entertained. After all our chief wants are a text-book of English Diplomatic with a Formula Book and Establishments of the seal-bearing offices, and there is at present no sign that these wants will be fully supplied.

*Classification of the Bibliography of English Diplomatic.*

1. Bibliography of Bibliographies :
  - (a) Early works.
  - (b) Modern works.
2. General Authorities :
  - (a) Early.
  - (b) Modern.
3. Special Authorities :
  - (a) England.
  - (b) Scotland, Ireland, Wales.
  - (c) Continental States.
4. Cognate Auxiliary Studies :
  - (a) Palaeography.
  - (b) Sigillography.
  - (c) Numismatic.
  - (d) Chronology.
  - (e) Biography.
  - (f) Topography.
  - (g) Archaeology.
  - (h) Linguistic.
5. Dictionaries of Diplomatic Terms.
6. Formula Books.
7. Diplomatic Documents :
  - (a) Inventories and Lists.
  - (b) Calendars.
  - (c) Texts.
8. Facsimiles.



# PART III

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## THE PALAEOGRAPHY OF OFFICIAL DOCUMENTS





## INTRODUCTION TO THE PALAEOGRAPHY OF OFFICIAL DOCUMENTS.

THE definition of Palaeography as the study of mediaeval writing at large cannot be wholly disregarded even for the purpose of a brief essay on the official writing of this country, which can scarcely be distinguished as such before the close of the 11th century. By common consent, an elementary knowledge of the evolution of writing since the beginning of the Christian era is requisite for the study of the earlier specimens of the national writings of Western Europe. It is true that the exact division in point of date between the classical and the national writings would seem to be of less moment in our own case, since we are told that the Anglo-Irish script is not derived, like the continental type, from a Roman Cursive stock. But even if the native "graffites" or other literary remains of the Roman civilization in Britain may have had no influence on the Anglo-Saxon or the Anglo-Irish calligraphy, this early writing is still worthy of our attention. For if we can derive much profit from the comparative study of the continental diplomata and capitularies from the 8th to the 11th centuries, we should not grudge the pains of acquiring some knowledge of the system on which these documents were constructed. Again, we shall find that, from the 9th century onwards, the successive styles of Franco-Roman and Gothic writing which prevailed throughout Western Europe may be regarded as a common national script.

It is surely worth the pains of mastering the slight palaeographic variants between the national hands during the later mediaeval period in order that we may utilize the foreign archives when occasion arises. Similarly a systematic study of Palaeography will enable us to master with comparative ease the familiar forms of mediaeval Epigraphy represented by the inscriptions of seals, coins, or ancient monuments, as well as the pseudo-Gothic lettering of later mural documents.

We may, indeed, be reminded that practically the whole of the historical sources for this early period have been already printed.

Nevertheless a knowledge of their manuscript forms is of considerable interest. Even in the case of our own Anglo-Saxon charters many later enrolments still remain to be collated<sup>1</sup>. When we pass into the 12th century the materials for a much needed *Codex Anglo-Normannicus* would afford ample scope for palaeographical enterprise. As for the official sources from the 13th century onwards, it is notorious that by far the greater number are still unpublished, or published in the unsatisfying form of an English *précis*. There is also the painful reflexion that a large percentage of the texts available is far below the standard of modern scholarship if not actually unreliable. The last circumstance alone should furnish a sufficient inducement for including Palaeography amongst the "honours" subjects in every academical curriculum of mediaeval history.

At the same time the claims of Palaeography for such consideration must be maintained without any display of pedantry or intolerance. It must not be forgotten that, presumably, the student of History is unskilled in this auxiliary study not from choice but from necessity. So long as accurately printed texts are available, he can afford to dispense with this accomplishment, better, perhaps, than with some knowledge of Bibliography and Diplomatic. This is a fact that should be borne in mind by the teacher who would smooth the path of learning for those who are grappling with the neglected study of historical sources. It is certainly an indubitable fact that the ability to read old manuscripts can be acquired by an intelligent student without any instruction whatever. This fact is frequently demonstrated in the case of those who pursue their studies in an atmosphere of Records with many willing helpers at hand. Indeed an environment of this kind may even be created by means of an extensive collection of facsimiles, but it would be found that there is a considerable difference between the ability to transcribe documents *verbatim et litteratim* and the further capacity of extending the same texts for the purpose of an intelligible citation. Moreover this practical method of self-help lies outside the serious study of the theory of Palaeography and equally ignores the kindred study of Diplomatic, the science of Archives, and the principles of historical Bibliography. It may fairly be claimed, therefore, on behalf of a system of palaeographical instruction that some difficulties and dangers can thus be overcome, whilst the student's view of the subject is widened by the comparative study of continental Archives.

<sup>1</sup> Mr W. H. Stevenson in *E. H. R.* xi. 733.

There are, however, a few hints which may be offered to beginners by any one who has spent some years in the company of Records. In the first place it is desirable that the student should appreciate the importance of possessing or acquiring some sort of apparatus for the study of the subject. It is here that the linguistic question must be dealt with, whilst a sound knowledge of European history and geography is the best possible preparation for the indispensable study of Diplomatic.

In the next place, close attention should be paid to the written forms of the Capital alphabet ; for a reader who fails to recognize the initial letter of a difficult place-name is in a hopeless position from the first.

It may be assumed that the student will be already familiar with the conventional as well as with the actual contraction signs and other symbols found in mediaeval MSS. Further than this, he would do well to note the method adopted by individual scribes in the use of these *compendia*. At the same time he must not be guided only by a rule of thumb. The *coup d'œil* method noted by the Benedictines of old also has its value, and the student need not be ashamed to leave what Elizabethan clerks called "windows" in his transcript to be filled in by a minute revision both of the script and sense. But above all it should be the object of a reader of MSS. to see the words, letter by letter, as they are written, and not words that were never written by the scribe, creations of a perfervid imagination. Hereafter it will be possible to recognize at a glance the actual words that underlie the bare *compendia* of the script, but a long apprenticeship must be served before this second sight can be relied upon.

Scarcely less important is the mental attitude adopted by the student towards an unfamiliar subject. On the one hand a credulous acceptance of impossible presentments is to be avoided, and on the other an unreasoning aversion from the archaisms or seeming barbarisms of the mediaeval vocabulary and syntax. A sceptical or apathetic frame of mind is usually fatal to any rapid progress in the subject, but a really intelligent interest in the cryptic method of the scribe will to some extent obviate the danger of crediting him with the expression of manifest absurdities.

A sound knowledge of the forms of the mediaeval or artificial letters and of their more common ligatures and accentuation having been acquired together with an equally thorough mastery of the principles and types of contractions, the student will perhaps be sufficiently equipped for his initial exercises. These will naturally be confined at



first to the calligraphy of the pre-Conquest and post-Conquest periods. Comparatively slight difficulty will be found in deciphering these scripts, for the Minuscule letters, at least, are as clear as print and contractions of a complex type are relatively rare. In fact the only serious obstacle is presented by the abnormal forms of a few vernacular letters and by an irregularity of spacing for which the reader will be already prepared.

A sound opinion as to the approximate dates of various mediaeval documents is not to be thought of at this stage of study any more than an accurate diagnosis of diseases is expected from a medical student. Nevertheless in the further course of reading and instruction the usual method of tracing the development of the national writing may be safely followed. The excellence of the Franco-Roman calligraphy during the 12th century may be observed in several stately national styles. Next the gradual deterioration of these writings will be indicated, culminating in the substitution of machinery for hand-labour. Finally particular attention must be called to the existence in this country from the close of the 15th century to the middle of the 18th, of a four-fold official script which is the despair of foreign palaeographers. Indeed it might be a difficult question to decide at what precise date these artificial curial writings finally disappear. An Exchequer clerk was still living within recent years who in his youth had written Latin Records in the Court hand, and traces of another archaic writing may still be found in legal documents registered by the Courts of Law, if not in actual judicial enrolments.

At the same time some preparatory instruction in the method of palaeographical description is likely to be of service to the more advanced student. In this connexion, a list of palaeographical terms would form a useful supplement to the conventional lecture course or the class-work which is confined to the reading aloud or transcription of a progressive series of facsimiles. Such a list must necessarily be compiled by the teacher or the students, and this task might be allotted to the seminar.

Other lists might, indeed, be usefully prepared by the same agency, including selections from the ample but confused materials contained in published lists of contractions, Latin and French forms of Christian names, surnames and place-names, with a modest glossary of the technical words which occur most prominently in several classes of official Records. The last of these lists should be supplemented by a "common-place book" for preserving references to obscure or interesting words.

It will be seen that in our search for assistance in interpreting the archaic forms which are unfamiliar even when the writing or the *compendia* are intelligible, we have entered upon the borderland of the neighbouring study of Diplomatic. When the time has come for pursuing his studies in this direction the student of Palaeography will obtain much useful information connected with the formulas of documents, the characters of seals and coins, the titles of official personages and the system of the mediaeval calendar. If, however, a distinct course of study in Diplomatic is prohibited, attention should be given to these subjects in compiling the classified list of select terms above referred to.

When such useful if not indispensable adjuncts to a course of palaeographical study have been put in hand, one other piece of seminar work will remain to be attempted, namely, the compilation of a classified Bibliography of Palaeography with special reference to national, local or professional interests. This list of works, however discouraging it may appear to the well-wishers of native learning, will at least supply the titles of several scholarly essays on the appliances and materials of mediaeval writing, a subject which will furnish an agreeable interlude to the serious business of learning to read MSS. Again these bibliographical selections will provide a valuable object-lesson in respect of the progressive development of the system of reproducing MSS. in facsimile. When the persistent use of lithographic plates for palaeographical instruction in this country has been finally abandoned we shall perhaps be within measureable distance of an official recognition of the importance of the subject.

## PALAEOGRAPHY.

### (a) *Old English Writing.*

THE conventional theory of the evolution of the national writings, including the English branch, does not immediately concern the position of our national Records prior to the close of the 11th century, for the simple reason that no such Records exist before that date. On the other hand, in default of official enrolments or rescripts of royal diplomata prior to a still later date, we must depend for our knowledge of the diplomatic formulas upon such originals as have survived from the 7th century to the 12th. Moreover it is desirable to notice the general conditions that prevailed in Western Europe in connexion with the evolution of a universal Minuscule writing, which not only superseded the insular hands before the end of the 11th century but also influenced the development of our national writing between the middle of the 15th century and the beginning of the 17th.

The conventional theory above referred to has been variously expressed during the last two hundred years both by native and foreign writers, and it is possible that the conclusions at which they have finally arrived may still be subject to further modifications. It would obviously be impossible to discuss these conclusions at large in the course of a slight essay on the characteristic features of the English official writing only, and a statement thereof in tabular form would certainly be inconclusive and might also seem invidious. The version which is given in a Table in the Appendix is an independent attempt to indicate the position of the several recognized types of English official handwriting in this country in the general scheme of national evolution.

The writings in use under the Roman civilization were obviously the parents of the various scripts practised by the several nations of Western Europe which sprang up from the ruins of the Roman Empire. Of these writings the two Majuscule forms affected our own national script in a particular manner. In the first place it

will be clear that the only traces of Capital writing are found, after the 9th century, in initial letters and conventional *compendia*, though the use of Capitals in commercial printing is sufficiently familiar. On the other hand, traces of Uncial writing are found in English books and diplomata of the 7th century, whilst the Half-Uncial writing derived from this Majuscule stock is actually regarded by all authorities as the immediate progenitor of our earliest insular script. Again the Roman Cursive writing which was at first produced by the debasement of the ordinary Capitals has left no traces upon our own national hands. We know indeed that during this early period a true Minuscule writing was produced and utilized for certain purposes, but this can scarcely be distinguished from the Cursive writing which is usually identified with this younger Roman script.

In its later form of Half-Cursive this primitive Minuscule writing joined with the Half-Uncial writing for the production of the reformed Minuscule writing of the 9th century. But already there has been an admixture of these well-defined species of Majuscule and Minuscule writings, reaching its height in the national civilizations of the 7th and 8th centuries. Whether "Mixed writing" can be regarded as a distinct species would seem to be somewhat doubtful, nor was it even a permanent variety. At the same time the prevalence of this hybrid script under the Merovingian dynasty is very noticeable<sup>1</sup>. At no time was its presence conspicuous in the writing of this country, though it occurs as late as the first quarter of the 13th century, especially in Exchequer Records. It will be remembered that the archaic use of Mixed writing in this country has been the subject of a felicitous comment by the great historian of the Exchequer<sup>2</sup>.

There is probably room for a considerable divergence of opinion with regard to the respective influence of the Half-Uncial and Half-Cursive forms of writing upon the development of the continental and insular hands. Whether the Half-Cursive writing, as it is found abroad, could have worked out its own salvation as a "plain Minuscule" writing without the interposition of the Half-Uncial models used by foreign scribes, is a question that scarcely concerns us here. We may notice, indeed, the superficial resemblance between the continental writing (Half-Cursive) employed as a book-hand in the 8th century and the "pointed" forms of Anglo-Irish writing which we

<sup>1</sup> Cf. L. Delisle, *Notice sur un MS. d'Eugypius*, &c.

<sup>2</sup> "This is...often a mark of the great antiquity of the hand; and how improper soever it may seem to be, many things thus written do look very fine and elegant" (Madox, *History of the Exchequer*, Pref. xii).



must not derive from a Roman Cursive stock. On the other hand the co-existence of a "rounded" insular hand, which is obviously derived from the Half-Uncial, and a "pointed" insular hand, for which no other derivation is admissible, is at least remarkable and reminds us of certain difficulties that have been experienced in the conventional derivation of the old Italian national scripts. Without questioning the general correctness of this theory, it is evident that the term "cursive" can be used in two different senses. We have already seen that in the early Roman period Cursive writing *is* Minusculæ writing, equally with the later Half-Uncial. In the same way this Minusculæ writing may be "cursive" or fair, according as it is written in the "set-hand" used for books or in the "running-hand" chiefly found in documents.

These remarks will apply broadly to all the national handwritings of Western Christendom. But besides these general types of books and private charters, we must continue for some time to come to recognize as a distinct species the Cursive writing of the Imperial or the Papal Curia, furnished with fresh exaggerations in the national chanceries. It is certainly true that the insular scribes, who were themselves the pupils of the Roman missionaries, were excluded from the influence of this curial writing. At the same time we have no proof that the normal development of the national scripts from Half-Uncial, Half-Cursive and Mixed to "plain Minusculæ" writing would have proceeded any the less surely if the curial system had not survived the Empire. But if the Half-Cursive type of Old English writing cannot be derived from continental models, whence proceeds the later insular script which, abroad, was based chiefly upon Uncial models? It might naturally be thought that as the insular scribes had succeeded in the difficult task of evolving a quasi-cursive writing from their own Half-Uncial script, the latter would be recognized as a common type.

Again, however, this natural supposition is forbidden to us. The origin of the later Old English calligraphy is found in the gradual conversion of the insular writing to the reformed models of the Franco-Roman writing disseminated by Charlemagne.

It is well known that the French hand invaded the English *Scriptorium* towards the close of the 10th century. The new calligraphy was apparently adopted by the English scribes for their own national writings, at first with obvious difficulty, but soon with ease and with an elegance of form that excelled their models. At length, with the opening of the 11th century, the native pointed Minuscules have been transformed.

With the Conquest the national hand disappears altogether and its place is taken by a French court hand. That the *stilus Anglicus* continued to be used in the script of a few English books and of a few English versions of Latin diplomata does not affect this theory, since although the typical Old English letters were still employed in a degenerate form, the character of the writing is that of the Franco-Roman or Gothic hands of the period.

Whether these sweeping conclusions are wholly warranted by the evidence that is now available is a question which need not be discussed here. Some exception may, however, be taken to the inevitable conclusion that the Old English writing must have been brought into harmony with continental forms by a summary process of conversion.

It would seem that the statement that these calligraphic reforms and notarial influences were fostered during the reign of the Confessor, if not earlier, and were forcibly completed at the Conquest, is chiefly founded upon the *dicta* of Mabillon, Hickes, the Benedictines<sup>1</sup> and other writers, who in turn relied upon the testimony of the mediaeval chroniclers<sup>2</sup>. This statement has been tacitly accepted by many later authorities, but it will be found that the above references lead us back to a tainted source of Anglo-Norman history<sup>3</sup>.

That the relations of Alfred and his successors with the Frankish civilization were close and fruitful and that the reformed Franco-Roman writing exercised a supreme influence over all other national writings may be readily admitted; but that this writing virtually displaced the Old English calligraphy before the Norman Conquest is an assumption that would seem to stand in need of more convincing evidence than that which has been hitherto adduced from a fictitious authority.

Although a certain number of Latin diplomata from the middle of the 10th century onwards are certainly written in a French hand, the facility with which scribes, who are responsible for at least

<sup>1</sup> The assertion that Alfred *a Gallis doctoribus in literis institutus erat* (Mabillon) scarcely finds support in Mr W. H. Stevenson's lucid exposition of these relations (Asser, pp. 303-311). Still less probability attaches to the statement of the Benedictines that this king "tira de France des moines savants qui portèrent dans cette île la littérature et les caractères français usités au IX<sup>e</sup> siècle" (*Nouveau Traité*, III. 373 sq.). Hickes (*Gramm. A. S.* 139, and *Dissert. Epist.* 66) follows suit.

<sup>2</sup> Cf. Hickes, *Gramm. A. S.* 160 n. Gale, *Scriptores*, I. 62, 71.

<sup>3</sup> Cf. *Nouveau Traité*, III. 373, 374, 375 n. Hickes, *Dissert. Epist.* 144, 145. Mabillon, *De re Dipl.* p. 52, where we have such references as the following: "l'autorité d'Ingulfe, Abbé de Croyland, ne permet pas d'en douter"; "En effet, Ingulfe, auteur du temps, dit," &c.; *Ut cum Ingulpho loquar; testante Ingulfo in historia Croylandensi, &c.*

some of these instruments, continued to use the insular style is very noticeable.

Again there is an alternative source of production in the case of the Anglo-French diplomata above referred to, some of which are believed to have been written by foreign monks in English houses.

At the same time it has to be considered whether in any case examples are sufficiently numerous or important to justify the supposition that French monks were introduced into this country for the purpose of reforming the insular script. We may remember, indeed, that a similar argument has been disputed on very high authority<sup>1</sup>. We are forbidden to assume that the native Gallo-Roman style was influenced by the Irish-Saxon models that were undoubtedly introduced into the continental *Scriptorium* in the 8th and 9th centuries, and the more agreeable explanation is now accepted that the Anglo-Irish scholars were in demand as illuminators and not as scribes.

But there is another consideration which appears to have been entirely overlooked in the course of these interesting discussions. From the reign of Cnut the use of the formal diplomata, in which the foreign handwriting and notarial influences may be most frequently detected, begins to give way to that of the vernacular writ. It would seem, therefore, that so far from these influences being paramount in the diplomatic writing of the first half of the 11th century, they are connected with a decaying practice and also (it may be added) with a class of instruments which in themselves compare unfavourably with vernacular forms. The authenticity of a large number of these later diplomata is far from certain, and suspicion might well attach to specimens which have hitherto been accepted without question.

Perhaps the time has not yet come for entertaining the suggestion that the "English rounded minuscules" of the 10th and 11th centuries were in fact evolved from an earlier calligraphy which is associated with the insular Half-Uncial script, and that this stately hand existed side by side with a Half-Cursive vernacular script and with wholly foreign writing. Nevertheless, as it is now admitted that the "Caroline minuscule" was evolved from the Half-Uncial and Minuscule models which were clearly at the service of continental scribes, we may fairly consider the possibility of a parallel evolution of the insular writing. Be this as it may, such speculations are certainly less harmful than the tacit acceptance of an ancient dogma which leads us back, through an almost incredible series of confident mis-statements,

<sup>1</sup> L. Delisle, *Essai sur l'école calligraphique de Tours*.

to the most suspect source of Anglo-Norman history. And if we do not need the hypothesis of an enforced reform by Alfred the Great, or by the Confessor, or by the Conqueror to account for the resemblance of the "rounded minuscules" of the later Old English script to the reformed continental writing, still less shall we need the artificial distinctions built up by older writers on the evidence of lithographs and fantastic forgeries.

Indeed few scholars would now trouble themselves with the distinctions between a "Roman-Saxon" and a "set Saxon," a "cursive Saxon," a "mixed Saxon," and an "elegant Saxon"; between an "Anglo-Saxon" and a "Dano-Saxon," a "semi-Saxon" and a "Norman-Saxon" script.

It has been well said that "les écritures minuscules romaines sont plus ou moins élégantes à proportion de l'habileté des mains qui les ont tracées<sup>2</sup>," and Old English scribes possessed at least abilities and traditions which would have enabled them to play their part in the international movement which led to the assimilation of all the Western national scripts to a common type.

With certain limitations, then, we may claim a national continuity for our own branch of the great Latin family of writings from the 6th century to the 11th. Even after the Conquest, there is unmistakable evidence of the existence of local schools of English scribes, undismayed by French fashions and certainly undisturbed by Norman chancery clerks. Of these men, some at least must have been young, and we have here, as has been lately pointed out<sup>3</sup>, one means of bridging the gap between the revolution of the Conquest and the reorganization of the 12th century.

### (b) *Mediaeval Writing in Latin.*

We have seen that the Frankish calligraphy was destined to influence the national writings between the end of the 8th century and the beginning of the 13th. It is no easy matter, however, to trace the progress of the new Minuscule writing in this country during the period which immediately followed the Norman Conquest. This difficulty may be partly due to the survival of insular traditions, but it is certainly much increased by the scantiness of surviving specimens of the Anglo-Norman script. It has also been alleged by early

<sup>1</sup> Astle, *Origin of Writing*, 96 sq. Hickes, *Gramm. A. S.* 134 sq.

<sup>2</sup> *Nouveau Traité*, III. 267; cf. *ibid.* 275.

<sup>3</sup> Mr W. H. Stevenson in *E. H. R.* XI. 733.



writers that the Norman writing itself displays Lombardic rather than Frankish characteristics, and although this view may be easily disregarded, it must be evident that the more cursive forms of diplomatic writing before the end of the 12th century exhibit considerable divergencies from the typical calligraphy of the Franco-Roman school. The latter may, however, be recognized amongst the few existing originals of the period. A more upright and angular writing is found in official registers down to the beginning of the 13th century and a characteristic hand is seen in the Pipe Rolls of the whole period. Finally we have occasional glimpses of the conventional script which was once known as "elegant Saxon" and which is still employed in the vernacular specifications of the boundaries in the hybrid diplomatic forms of the period. It is almost useless to say that we must eliminate from our examination many suspicious documents which pass as contemporary charters.

From the end of the first quarter of the 12th century a marked change is noticed in the insular calligraphy no less than in the diplomatic writing of the continental chanceries. The curial writing of this century is perhaps unique in its artistic development of the best characteristics of the Franco-Roman calligraphy. Power rather than elegance of style is indicated in the thick upright compact letters and the long tapering strokes above the line. A marked feature of this writing is that both the letters on the line and the upper strokes preserve an exact level. Another is that whether this hand is large or small, its characteristics are well preserved. Possibly, too, the attractive features of the earlier type of 12th century calligraphy are enhanced by the excellence of parchment and ink and the scientific methods of the contemporary *Scriptorium*<sup>1</sup>, whilst the accentuated contraction marks, the occasional ligatures and the introduction of Majuscule letters in the middle of a word lend a peculiar distinction to the writing of this period<sup>2</sup>.

At the same time we may fairly conclude from the discovery of an increasing number of original fragments that an alternative form was freely used in the shape of a Half-Cursive writing. This may be either small or pointed, or, especially in the middle of the century, larger and broader and more loosely constructed, with some Gothic characteristics.

Towards the close of the century this stately curial writing is already beginning to lose much of its pure grace of outline. The

<sup>1</sup> Hardy, *Catalogue*, Vol. II. *Introduction*. - *Dialogus de Scaccario*, I. 5.

<sup>2</sup> Cf. above, p. 361.

letters are loosely formed, notches and other embellishments are introduced, and in judicial Records we notice a fine incisive writing which reminds us of the cursive glosses in literary MSS.

The curial writing of the 13th century will be found to differ in its general character from the Franco-Roman calligraphy above described and by a gradual transition it assumes the form which has been styled Gothic. The Franco-Roman writing may, however, be traced, especially in such documents as Royal Charters and Pipe Rolls, at least as late as the reign of Edward I. The so-called Gothic writing can be recognized from an early date in the 12th century, but is at first almost exclusively confined to literary MSS. In the 13th century we may sometimes find this hand in official registers, and its influence is doubtless to be traced in the greater angularity both of the calligraphy and the cursive writing of the period, as well as in the fanciful embellishments which in the shape of "clubbed" strokes and "bows" are so familiar between the end of the reign of Henry III and the beginning of the reign of Edward III. The typical official hand of the first half of the 13th century is a small, loose Cursive, in which the letters appear broad or elongated according to the extent of the influence which the fine writing of the previous century continues to exercise. The characteristic official "register" hand of the same period is small and compact, the letters being somewhat thick and square in shape rather than rounded or angular as in the case of diplomata and literary MSS. respectively.

In the last years of the reign of Henry III the influence of the Gothic style begins, as we have seen, to affect the curial writing materially. During the reign of Edward I the new fashion of "clubbed strokes" and "bows" reaches its height. It is continued in the next reign, but the writing of the first quarter of the 14th century has to some extent an individuality of its own.

Curial writing it is true exhibits little change during the 14th century, but the bulk of the semi-official documents and registers of the period are written in a large and somewhat angular Gothic hand which continues in vogue during the whole of this century, becoming loose and irregular in the reign of Richard II. The note of decay is indeed struck before the end of the reign of Edward III. The curial writing in which the principal series of Records are inscribed begins to undergo a rapid decadence which is eventually arrested by the appearance of a uniform and practically artificial hand known as Half-Cursive Gothic. Before the reign of Edward IV this conventional hand is further responsible for two eccentric offshoots known as "Chancery" and "Court-Hand,"

which effectually superseded all other forms of curial writing in Latin. The general characteristics of the Gothic hand may still be traced as late as the reign of Charles I in vernacular cursive writing. From that date it is completely superseded by the Humanist calligraphy.

(c) *Mediaeval Writing in Old French.*

The mere fact that a considerable proportion of the official writings of this country between the latter part of the 13th century and the middle of the 15th is found to be in the French language, does not necessarily imply the existence of any real palaeographical distinctions between the contemporary French and Latin scripts. On the contrary the same Gothic characters are clearly recognized in both, and herein the French of Stratford-le-Bow, as it was written, cannot be distinguished from the French of Paris.

At the same time, though not in this palaeographical sense, there is a considerable difference between the mediaeval French and Latin scripts from the point of view of the modern student. In the first place the comparatively uncontracted form of the French MSS. will be easily noticed. But, as though to counterbalance a facility of perusal in this respect, new difficulties of a linguistic nature must be encountered. Here, indeed, the mediaeval scribe is seen to labour under the same disadvantage as our modern students. French is not the mother tongue of either, whereas a learned familiarity with Latin may be assumed in the case of both. Even the orthographic eccentricities of native writers in the vernacular are governed by a phonetic system which is fairly intelligible to the foreign reader; but the official French, as droned in English courts, was ever attuned to a false key<sup>1</sup>.

A necessary auxiliary to the study of this branch of Palaeography must therefore be sought in a working knowledge of the grammar, syntax and vocabulary of Old French as used, and much abused, by English clerks. To this small accomplishment we might add with great advantage an elementary knowledge of the philology of the language itself. But although a comparatively slight acquaintance with these archaic phrases will give us the sense of a typical document, it will not enable us to reproduce the text in an extended form without certain misgivings. A ceaseless vigilance will be needed to ascertain the method or rather tastes of individual scribes, and, despite every heed of precedents and idiosyncrasies, we can only proceed in many instances by guess-work.

<sup>1</sup> *Year Books* (Selden Soc.), Vol. I. Intro.

Perhaps one cause of these difficulties may be traced to an unconscious disinclination to take the conventional *compendia* of this Gallic script quite as seriously as we should do in the case of their Latin equivalents. In fact the very poverty of the scribe's resources diverts our attention from his occasional use of orthodox devices. For example, if the article makes as good sense as the pronoun in the form of *lēs*, we are liable to ignore the almost invisible contraction which signifies that the word is *leurs*. These pitfalls may doubtless be avoided with the exercise of due circumspection, and the assistance of certain elementary hand-books; but nothing less than pure intuition will enable us to divine which of two or three orthographical forms a scribe would have selected for the extension of a word which may be represented by a single letter. It must be admitted, however, that these are extreme cases, and that in the great majority of mediaeval official documents written in French these supreme difficulties will not be encountered. Indeed, we may remember that the forms of Old French preserved in English official documents are comparatively intelligent when compared with the usual renderings of Old English terms. Moreover it should be borne in mind that, many of these French documents contain mere versions of recognized Latin formulas and the student will receive considerable assistance from this circumstance. A French version of Letters Patent or of a Privy Seal, for instance, can be more easily read than an Ancient Petition. From a still more practical point of view these Old French documents are of secondary importance, since, numerous as they are during the 14th century, they form but a small proportion of the historical documents of the whole mediaeval period. Moreover, a large percentage of the more important series, notably the Rolls of Parliament, has been already printed.

#### (d) *Later Official Writing.*

A careful study of the development of our national writing will reveal a very considerable change in the character of that writing between the close of the 14th century and the beginning of the 16th. At the same time it would not be an easy matter to determine the approximate date of the change referred to, or to indicate its precise nature in the case of official writings. It is well known that the change in question was accelerated by certain external causes such as the official recognition of the vernacular from the year 1362, the



discovery of printing, and the loss of the clerical monopoly of writing under the influence of the New Learning.

Closely connected with these agencies we have the important revival of the old Franco-Roman calligraphy in the 15th century. At one time this stately script seemed in danger of disappearing before the inroads of the modern Gothic; but the Humanist studies gave a new impulse to the artistic feeling which has kept alive the traditions of an elegant Minuscule writing down to our own times. In another direction, however, the increasing use of the vernacular produced a fresh tendency towards national individuality. In the meantime, as we have seen, the Gothic writing of the 14th century had already begun to assume a Half-Cursive form. Finally, before the close of the 15th century a new cursive vernacular script had been evolved, in which, however, the forms of several Gothic letters can be traced at least as late as the close of the 16th century.

In another direction the conventional characters of the Gothic script are preserved in an artificial style of writing to which the terms "Court-hand," "Chancery," and "Secretary" have been applied. This style of writing continued to be used for the enrolment of legal Records with scarcely any change till the beginning of the 18th century.

We may fairly assume, however, that from the middle of the 16th century the spontaneous habit of writing in a Gothic hand had been lost, although the forms of many Gothic letters were preserved for a century longer. The scribe who wrote love letters and kept accounts in a cursive vernacular writing, deliberately cultivated an artificial hand for recording the proceedings of the Courts of Law or for enrolling an instrument in the Chancery. Other official writers who laboured in the Signet Office or in the study of some minister of the Crown, affected the more elegant hand which is known as "Secretary." Naturally we shall find every sort of combination between the new cursive and official hands, but this is a circumstance which must depend in every period upon the individuality of the scribe. The writing of a mere clerk will continue to be as conventional, relatively, as mediaeval script whether the characters are formed upon a Gothic or an Italian model. But when for the first time the laity begin to write for themselves, the ultimate triumph of individuality, expressed in the cursive vernacular, is assured.

Thus the bulk of the official writings of the 17th and 18th centuries is endited in the natural handwriting of statesmen, governors, military and naval officers, and their numberless correspondents. Even

when the services of a secretary are employed his "copper-plate" writing ceases, from the end of the 17th century, to retain any vestige of the Gothic script. The latter, preserved as an artificial Court-hand, is henceforth confined to the purely legal Records. It is true that the volume of these Records has considerably increased in the 17th century, but their historical and legal interest has proportionately diminished. The State Trials and Law Reports which are printed or else accessible in cursive MSS. provide convenient evidence and familiar case-law for the modern historian or lawyer.

The indiscriminate use of the terms Court-hand and Chancery in connexion with the later Gothic writing of the 15th or even of the 14th centuries is probably responsible for some confusion. As a matter of fact the form of writing which is usually described under these titles is really that which occurs in the post-mediaeval period, though earlier writers regarded the term Court-hand as equally applicable to the reign of Henry I or to that of Henry VII. It is obviously undesirable that a table of the forms of the written alphabet during the Tudor period should be regarded as descriptive of the three preceding centuries. Such a table, however, is presented to us in more than one of the most authoritative treatises upon the subject, and the impression is thus conveyed that "Court-hand" is a general term for all official writings. The term itself, however, is a very convenient one and might be retained with advantage if its use were confined to the proceedings of the Courts of Common Law and Exchequer from the reign of Edward IV onwards. This date may be regarded as approximately marking the final evolution of this conventional hand from the decadent Gothic<sup>1</sup>. The chief point of resemblance between the two styles of writing is seen in the angularity of the Minuscule letters, but in the later period a lozenge-shaped construction is noticeable in the bodies of the letters b, c, d, g, o, p, q and s. A further characteristic of this Court-hand writing is found in the habit of continuing the bottom of the down stroke in the letters a, c, k in an upward direction so as to form a bow. A third distinction is seen in the "minims" themselves, the strokes being disconnected, broad throughout and conspicuously erect. These peculiarities are also responsible for the undoubted difficulty found in reading this distinctive hand, and they constitute a marked distinction between this writing and the older Gothic.

The actual forms of the Court-hand letters differ from the Gothic

<sup>1</sup> See Appendix.

in a very slight degree. Some capitals closely resemble those of an early period. Others are clearly of an uncial type and the eccentric outlines of a few more do not constitute a specific distinction. On the other hand some letters, notably P and S, do present important differences, and these once more give trouble to the reader who is accustomed only to the Gothic script.

The "Chancery" hand which runs a parallel course with this Court-hand in the 16th and 17th centuries may probably be distinguished from the Gothic before the middle of the 15th century<sup>1</sup>. Its structural resemblance to that form of writing is in fact much closer than in the case of the conventional Court-hand, although certain letters are much alike in both. In their general aspect, however, the difference between the "Court-hand" and the "Chancery" hand is very marked. The latter is not only rounder and flatter in appearance, in distinction to the upright and sometimes backward lines of the Court-hand, but the letters are more open and loosely formed. The two styles, however, possess this common characteristic, that they are equally artificial and uniform in point of execution so that the writing of the 16th century presents almost the same features as that of the 18th.

The third conventional handwriting of the post-mediaeval period is usually known as "Secretary" owing to its use as the fair hand in which letters and formal documents were prepared for signature or for official preservation.

This writing was developed more slowly than the preceding forms but it is evidently based upon the calligraphy of the late 15th century with an admixture of Gothic and a few Court-hand letters, especially C and S. One of its most characteristic letters is a small p, which is often mistaken for an x. In the 16th century this hand abounds in flourishes which disguise its close affinity to the Humanist calligraphy, whilst many letters used in the Court-hand and Chancery alphabets are introduced. From the middle of the 17th century looped capitals begin to replace the Gothic forms. In addition to official documents, numerous private deeds and formal writings in this hand have been deposited amongst the legal Records and State Papers, for this calligraphy was largely practised by the scribes whose professional successors still preserve its general forms.

A detailed description of the cursive vernacular writing<sup>1</sup> which was used with increasing freedom from the middle of the 15th century would be impossible here. Moreover, this new style must be regarded

<sup>1</sup> See Appendix.

as a hybrid growth containing many forms of letters that were clearly borrowed from the Gothic itself as well as from the later official writings above referred to. This is especially evident in the case of certain capitals which continued for another century to be modelled on the artificial Gothic forms. The use of these and even of small letters derived from the same source by individual writers may probably be explained by the use of certain models in the course of instruction. At the same time archaic or artificial forms would naturally be affected by those engaged on official or legal business, whilst the influence of the Humanist learning is seen in the "copper-plate" writing of many statesmen or scholars. An examination of a variety of hands during the 16th century might lead us to suppose that certain letters were usually formed on a different plan to that which has prevailed since the close of the 17th century. This fact is noticeable in respect of certain small letters as well as several capitals. Of these some may be regarded as mediaeval survivals whilst others are derived from Court-hand models. At the same time several partial ligatures occur as in the conjunction of t with the vowels o and e, and that of h with s, c and t. The use of back strokes in this vernacular writing resembles a device of mediaeval scripts, continued in the artificial curial writings. The cursive vernacular writing above described occupies a middle place between the artificial Gothic script and the Humanist calligraphy of the period. For another century the resemblance to the former is very noticeable; but from the beginning of the 17th century the Franco-Roman Minuscule resumed its former sway. At the same time it is interesting to observe that, in purely cursive writing at least, these conventional characters are insular in their formation. That is to say, a national type of writing may be distinguished from the 16th century onwards in distinction to the cosmopolitan scripts of the four preceding centuries. We might even venture to proceed a step further and to assert that just as the Scottish writing of the 16th century exhibits several traces of the close political relations of that country with France, and as the vernacular Irish script continued with little change of form until the reign of Henry VIII, so this new English cursive bears an inherited resemblance to the Old English cursive of pre-Conquest times.



(e) *The Royal Scriptorium.*

It has been previously observed<sup>1</sup> that the information available as to the institution of the Chancery in this country and its working establishment is of a very scanty kind. The same remark must almost necessarily apply to our knowledge of the actual apparatus for writing the royal acts or official compilations which comprise practically the whole bulk of the Records preserved in the State Archives before the end of the 12th century. It must at least be assumed that such documents were written within the precincts of the Court, but this necessary assumption is the cause of a serious difficulty.

In the case of a foreign Court the needful apparatus was naturally provided by the Chancery with its elaborate notarial establishment, but the existence of such an establishment in England before the Conquest has not yet been proved<sup>2</sup>. Even a century later we fail to find any traces of such a curial department<sup>3</sup>, and when its existence can be clearly distinguished, a large part of its duties are performed by other clerical agencies<sup>4</sup>.

Indeed in the case of the most ancient and characteristic instruments, Royal Charters and other public acts, we are scarcely justified in assuming that the actual writing was performed by an official scribe.

There is no uniformity of style such as distinguishes the acts of the foreign Chanceries at a glance, and the O. E. "land-boc" and Anglo-Norman charter are clearly home-made<sup>5</sup>. We have some evidence of the employment of experts for this purpose by certain religious houses, but these scribes do not appear to have formed a professional class of notaries<sup>6</sup>. In fact the actual writing of the great bulk of the diplomata issued before the middle of the 12th century was apparently provided by individual enterprise, and the ceremony of execution itself involved no clerical apparatus, whilst no official rescript of the original instruments was apparently preserved until the beginning of the 13th century.

Even as late as the Tudor period we have seen that it was usual for the tenor of a royal grant to be prepared ostensibly at least by the grantee himself, and this original draft was submitted for the

<sup>1</sup> See above, pp. 157—162.

<sup>2</sup> See above, p. 163 sq.

<sup>3</sup> *Dialogus*, I. 5.

<sup>4</sup> The Exchequer and the Wardrobe.

<sup>5</sup> Cf. above, p. 175 sq., and below, p. 377. Is it possible that Bishop Stubbs had this in mind when he wrote: "Abundance of charters...attest the activity of the Church, and of the monasteries" (*C. H. I.* 242)?

<sup>6</sup> See above, p. 175.

royal signature and is still preserved as a record of the first stage of an official transaction which was now protracted with a sole regard for fees<sup>1</sup>. One reason for this display of individualism is to be found in the well-known fact that in England the Church was before the State and that in this connexion as in others its organization was utilized for the requirements of the whole community. That the clergy alone possessed a knowledge of letters was not a circumstance peculiar to this country, but probably in this country alone we find the very ink supplied for the royal *Scriptorium* by the nearest church, which also took charge of the most precious contents of the royal Archives and still harboured these Records almost within the memory of living men<sup>2</sup>. Moreover the allusions of mediaeval writers would seem to indicate a conversance with affairs of State on the part of certain learned canons or monks, which might well have been acquired by them in the exercise of some official task. When, during the controversy relating to the Scottish supremacy, Edward I requisitioned the monastic Archives for early State Papers the extent of these intimate relations was at once revealed<sup>3</sup>.

Perhaps we shall find that very similar relations between the Church and the clerical departments of the State existed on the Continent, at least as late as the prohibition of notarial employment to the regular clergy<sup>4</sup>. But although we find no traces of a "notarial art" in connexion with the earliest establishment of the royal *Scriptorium* in the shape of formula books or other technical precedents, we must not suppose that on this account the business of the State was inefficiently conducted. Whether in the Curia or the Camera, the Chancery or the Exchequer, important instruments and extensive accounts were dispached with remarkable skill and precision. Earlier still the Great Survey remains a monument of clerical labour<sup>5</sup>, and this was the precursor of a long series of stupendous inquisitions. These will be found to extend throughout the whole of the succeeding period, but of the actual apparatus employed for the execution of these writings we have no exact knowledge. One thing indeed is certain; clerks there were in plenty. England in the 12th century, we have been assured, was a "paradise of clerks." We have unfortunately no means of ascertaining whether the clergy who found maintenance and advancement at the Court formed an organized

<sup>1</sup> See above, pp. 263 sq. and 349.

<sup>2</sup> *Dialogus*, I. v. Cf. *E. H. R.* Apr. 1904.

<sup>3</sup> By the Council of Rheims in 1131.

<sup>5</sup> Eyton, *Notes on Domesday*.

<sup>2</sup> Above, pp. 22, 24.

official body; whether they were borne, so to speak, on the establishment of the Chancery and Exchequer or eked out the emoluments of a canonry or benefice by fees or perquisites. Especially we should wish to know under what conditions they worked and whether they wrote these charters and rolls with their own hands or dictated the entries to subordinate scribes, and if so, whether those scribes affected the character of a learned caste. Such evidence as we have perhaps seems to indicate that *clericus* and *scriptor* were in most cases convertible terms, and in mediaeval illustrations the clerk is delineated in the act of writing. In some cases the clerk appears to have been an executive officer, acting as the deputy of an officer of State and merely supervising the labours of the official scribes<sup>1</sup>. In other cases a clerk held a permanent appointment as the writer of a particular record and was paid, not as a *clericus*, but as a *scriptor*. The records of such payments are, however, very infrequent and we are tempted to suppose that the permanent officials or patent officers provided such clerical assistance as they required<sup>2</sup>, a practice followed in the government departments until comparatively recent times.

The patent offices referred to, which were held *antiquo jure*, were nevertheless few in number and quite inadequate to supply the requirements of the most primitive system of administration. The greater number of clerical posts must therefore have been filled by "supernumerary" clerks paid by fees received on a recognized scale from suitors or accountants<sup>3</sup>. Such a system would tend towards the creation of a professional class such as the Cursitors afterwards became, whilst in the *Curia* itself the necessary writing was no doubt undertaken by the prothonotaries.

It will be evident from the above instances that a practically unlimited supply of competent scribes could be provided for the service of the Crown before the close of the 12th century. In addition,

<sup>1</sup> In this connexion we may remember that *clericus* was a recognized rank in the mediaeval Household, being that above the sergeant and next to the hereditary chief (*Magister*) of a department (*ministerium*) or his nominee.

<sup>2</sup> Thus the *Magister Scriptorii (Regis)*, who was in receipt of a large salary, was required to provide (*invenire*) suitable scribes at the Exchequer for writing the Chancery rolls and writs there (*Dialogus*, I. v.). One of these, however, was paid with the Exchequer staff. Cf. *Red Book*, p. cccxxv, citing a contract in the reign of Edward I, from which it appears that as many as 68 supplementary clerks were employed during vacation in 1290 by the permanent officials at the Exchequer who were reimbursed by the Crown.

<sup>3</sup> As for instance in connexion with the "Judaism" (Hoveden, III. 262). That such fees were not unknown in an earlier period is clear from *Dialogus*, I. vi. In the reign of Henry VIII the system was carefully protected by legislation (27 Hen. VIII, c. 11).

however, to the original diplomata and rolls written or compiled in the royal chapel or Treasury, or in the *Camera Clericorum* of the itinerant Household, a large portion of the existing Archives was composed at the instance of the local officers of the Crown. Thus nearly every original or judicial writ that issued from the Chancery, Exchequer, or Curia bore an appropriate Return endorsed or in a schedule. In the case of the great inquests of the period, these Returns were, as we know, voluminous, and the Accounts of sheriffs and bailiffs were even more extensive. To these must be added the documents connected with the local administration of justice, so far as they were not prepared by the itinerant justices or their clerks.

Here we have no question of an official machinery in the shape of notarial bodies in certain local centres. The writings which emanated from these scattered bailiwicks must have been provided out of purely local resources. How was the thing done? It was a simple matter for the Crown to give an order for the taking of a general inquest with the injunction added *Facias inbreviare* or *redigere in scriptum*, but the burden thrown upon an unlettered community must have been a heavy one. For we can scarcely doubt that these Returns were home-made, by the hands of domestic chaplains, village priests and itinerant scholars. The few surviving fragments of 12th century inquests written by unskilful hands in uncouth Latin upon odds and ends of precious parchment bespeak their origin<sup>1</sup>, and here we have another process of casual production to add to the primitive methods of the royal *Scriptorium*.

For an exact description of the materials or implements of writing used by the official scribe, we should look in vain amongst the earliest mediaeval Archives, seeing that we do not know with any certainty where he was housed. We have already seen that ink was specially provided, and we know on the same authority that parchment was supplied by the permanent scribes<sup>2</sup>. The necessary implements of his craft in the shape of pens, knives, compass, &c. would obviously have been the same as those which are known to us from other sources. The recognition from an early date of the importance of the office of the *Magister Scriptorii*<sup>3</sup> might certainly lead us to infer that the same discipline and professional traditions were observed as in the case of the well-ordered monastic copying-room<sup>4</sup>.

<sup>1</sup> Exch. K. R. Knights' Service, Bdle. I.

<sup>2</sup> *Dialogus*, I. iii and v. In the reign of John the latter is supplied out of the royal revenues (*Rot. de Misís, &c. passim*).

<sup>3</sup> *Dialogus*, I. v, vi. *Red Book of the Exchequer*, p. 807.

<sup>4</sup> Hardy, *Catalogue*, Vol. II. Intro.



We know at least that it was a point of honour to copy accurately<sup>1</sup>, to space consistently<sup>2</sup> and to avoid erasure<sup>3</sup>.

The conventional system of cancellation and interlineation is well preserved<sup>4</sup> and at a later date is deserving of careful attention. It is even clear that the rubrication and illumination of official or semi-official registers was as usual performed by a distinct hand, since we find many spaces for these ornaments left in existing Records. At the same time we owe to the individual talent or enterprise of official scribes, from the 13th century onwards, many curious marginal figures, together with a code of symbols which has a special archaeological value in connexion with the history of the Exchequer<sup>5</sup>. The clerks of that ancient court were also credited with an exclusive system of arithmetic but, beyond the use of a curious combination of points or "dots" in the margin of Accounts<sup>6</sup>, this distinction is not apparent in official MSS. The writing of tallies was entrusted to a special clerk, but the device was not employed in official circles only. Although the official scribe of the post-Conquest period scarcely attained the high standard of calligraphy set in the preceding period by the Old English school, his work on the whole compares favourably with that of his foreign contemporaries. In point of intelligence and accuracy moreover he was not their inferior, although subject to the same failings that characterize the methods of the whole fraternity. His worst mistakes, in spite of the widely circulated glossary known as *Expositiones Vocabulorum*<sup>7</sup>, are committed in copying Old English terms, whilst his difficulties in respect of insular French have recently been the subject of an enlightened criticism<sup>8</sup>. But in connexion with the severe test of personal names and place-names we can scarcely fail to be astonished at the extent of his general information. In the mere copying of continuous works we have, it is true, frequent

<sup>1</sup> *Dialogus*, I. v.

<sup>2</sup> *Ibid.* Official punctuation, so exasperating in a later period, is almost a negligible quantity during the Middle Ages. A noticeable feature in Accounts is the point usually placed before and after the individual figures of a sum.

<sup>3</sup> *Ibid.* The use, or rather abuse, of palimpsests, the particular aversion of continental notaries, seems to have been very rare amongst English official scribes.

<sup>4</sup> *Dialogus*, I. v.

<sup>5</sup> For the explanation of these *signa* see Palgrave, *Kalendars*, and *Antiquities of the Exchequer*, p. 55 sq.

<sup>6</sup> To represent the counters used in various combinations of figures, cf. *Antiquities of the Exchequer*, p. 146. English official scribes appear to have been conservative with regard to the use of Arabic figures. The earliest of these noticed by the present writer occur in the Hargrave MS. 313, which probably had an official origin and which was compiled soon after 1250.

<sup>7</sup> *Red Book of the Exchequer*, p. 1032 sq.

<sup>8</sup> Above, p. 368 n.

instances of carelessness and arbitrary treatment of an exemplar, but work of this kind was often merely of a semi-official character.

In this connexion it may be worth while to point to the need for some special term descriptive of the compilations in book-form which are written in a style that seems to occupy a middle place between the curial writing in rolls and diplomata and the set-hand of the monastic *Scriptorium*. Perhaps the term "Register-hand" may be regarded as sufficiently characteristic of the large class of official and semi-official compilations which are technically known in the present day as "Registers" and "Books of Remembrance."

### (f) *Palaeographical Terms.*

If we are able to enumerate a fairly extensive series of technical terms connected with official writings in this country in ancient and modern times, it will also be found that this terminology is of a somewhat promiscuous and casual type. It will in fact be desirable, in order to avoid confusion, to discard entirely such terms as have been coined by later official antiquaries, in the 17th and 18th centuries, without any regard to recognized mediaeval forms. The latter in turn appear to have been frequently confused with classical analogies, real or fancied, and an adequate list of native terms is still a *desideratum*. Under these circumstances it will only be possible here to give a few indications of the contexts in which these terms generally appear.

In the first place the written document itself is very variously described and, as a rule, it is only in official documents that the terms employed in this connexion amount to anything more than a generalization or even to a mere abstraction. This is especially noticeable in the case of cultured but unofficial writers. The clerks of the King's Court at least attached some weight to the terminology of their profession. Such words as *scriptura*, *conscriptio* and *scriptum* for example may mean anything, but *descriptio*, *inbrevatio* and *abbrevatio* have a special significance<sup>1</sup>. We do not, however, find these general terms employed in a technical sense according to the style of the continental notaries<sup>2</sup>, and their use on the whole has little scientific value.

The same conclusion must apply to the several terms employed to describe the materials of writing. The composition and quality of

<sup>1</sup> These are the terms used for royal surveys or inquests, for the compilation of the statistics ascertained by inquest, and for the brief digests of the results for convenience of reference, respectively.

<sup>2</sup> e.g. *Scriptum donationis*, &c.

mediaeval ink are subjects that have little concern for us here. The respective uses of *incaustum* and *atramentum*, of chrysography and rubrication play their part, it is true, in the *bella diplomatica* of the 17th and 18th centuries. Possibly too the probability that the monastic forgers of Westminster or Winchester used the very ink that was supplied for the writing of Domesday Book, the Pipe Rolls and the Royal Charters of the 12th century is a fact of little more than sentimental interest. Whether the ink of the later official *Scriptorium* differed in any important respect from other preparations may well be doubted. At the same time a superficial difference between the appearance of the ink in official and literary MSS. may be easily remarked. This effect, however, is possibly due to the quality of the parchment which in the former case is usually less finely dressed and of a darker tint. Owing to this circumstance, perhaps, the ink of rolls and loose membranes appears to have been applied with a lavish hand, and this is particularly noticeable in the smaller "pieces" on which so many original documents were written. In fact when thickly laid on the rough surface of this stout parchment the viscid and lustrous ink of the 12th century stands out like black enamel.

The terminology of the earliest Archives is notoriously perplexing, as may well be the case when such widely different forms as a roll, a file, a book and a single sheet may be described in convertible terms as *rotulus*, *liber*, *volumen*, *carta* and *breve*<sup>1</sup>. The *rotulus* itself may consist either of membranes sown together end to end, or of membranes and portions of membranes filed at the head. The former type is officially distinguished as a "consecutive" and the latter as a "headed" roll, but these terms like that of "rotulet" applied to the individual membranes of a "headed" roll are of modern origin. There appears, however, to have been a well-marked distinction between the use of *membrana* and *rotulus* in the above connexion, for the membranes of *headed* rolls are always referred to as *rotuli*. Again, a somewhat vague distinction is made between the "pagination" of official and the "foliation" of unofficial books.

Writings made on separate pieces of parchment but connected with the main entry were described as *in cedula*, a term which had not, however, at any time an exclusively official usage.

A rarer term occurs in the use of *peciae* to denote the component parts of a file of loose documents.

<sup>1</sup> Instances will be found in the literature of Domesday Book. A variety of synonyms for a single document will be found in the collections of Old English charters.

The practice of filing (*in filaciis*) was very ancient, though in the 12th century it seems to have been also the custom to preserve loose documents in separate compartments (*in forulis*), an alternative method of filing which perhaps suggested the official "pigeon-holes" of modern times.

Such points as these would be of purely antiquarian interest were it not for the importance of noticing the recognition of each membrane or leaf as a distinct unit for the purpose of official reference. Each has its front and its dorse, and before the period of consecutive foliation cross references are made according to the number of precedent or subsequent leaves<sup>1</sup>. We even find the continuation of a particular entry not only carried from the front to the dorse of a membrane and thence to a new membrane, but also to any convenient position in the roll with an appropriate direction in each case<sup>2</sup>. These precautions were doubtless the outcome of the very ancient practice of regarding every diplomatic document as consisting properly of a single roll written only on the front and complete in itself<sup>3</sup>. Paper as a substitute for parchment can scarcely be regarded as a recognized official material before the 15th century, and even for another century the great majority of documents in this form were received from private sources.

The various terms employed to describe the external tegument of official documents when bound or sewn together have no distinctive character. Such terms as *Liber Albus*, *Liber Pilosus*, &c., denoting the colour or texture of the cover, were in general use, but it should be remembered that it must not by any means be assumed that either the existing binding or outer covers of official books or rolls are of contemporary date with the record itself. This remark applies with special force to the lettering, pagination and even to the order of the contents. It is of some interest to find that the date of the existing binding of several historical records can be ascertained from official entries<sup>4</sup>.

<sup>1</sup> Reference was even made in the case of a complete roll to the first or other roll preceding.

<sup>2</sup> *Plus in dorso—Adhuc de—Residuum de—Post—&c.*

<sup>3</sup> So we have even in the 13th century such official terms as *parvi rotuli*, *longi rotuli*, &c. and a considerable number of single, rolled membranes written and preserved in the same manner as *papyri*.

<sup>4</sup> The Exchequer Books appear for the most part to have been bound in the 14th century, and repaired in the 16th. Few, if any, ancient books of the Chancery can be recognized. The later Decree Books, like many other official books compiled after the 15th century, were usually bound in vellum. For the modern series, including the State Papers, calf was largely used. A large number of registers, which are now preserved amongst the Public



There is of course another aspect of the terminology of official MSS. which is occupied with their contents rather than with their composition or preservation; but this is a subject which does not concern us here.

(g) *Palaeographical Tests.*

The conclusions which may be drawn from the character of the handwriting and other external indications afforded by official MSS. have been referred to generally under the head of Diplomatic. Obviously certain palaeographical tests must form part of the process of scientific "description" by which we seek to determine the purport, date and authenticity of a given document. This description, however, involves the consideration of other features of the MS. besides the handwriting itself. In fact as a final test of date or authorship, the results of a close examination or comparison of handwriting are admitted by most ancient and modern writers to be unsatisfactory. Even though an expert can usually satisfy himself at a glance as to the approximate date or general character of the greater number of historical MSS., it does not follow that others will agree with his opinion. Moreover the most confident opinions have in so many cases<sup>1</sup> proved to be erroneous that a wise reticence is usually observed in matters of any consequence. It has been recorded in his own handwriting by a famous official antiquary<sup>2</sup> that a certain Register is of the time of King Henry VII from the character of the handwriting, and this opinion, he adds, is confirmed by the style of illumination peculiar to that period. Later official authorities have assigned the date of the MS. without hesitation to the reign of Edward I, and this is now the accepted date<sup>3</sup>.

Curiously enough, another "Breviate" of Domesday exists in official custody<sup>4</sup> to which the same date has been officially assigned. A third "Breviate" however, which is not in official custody<sup>5</sup>, has been authoritatively described as a 12th century MS. although the writing is to all appearance of the same character as the last mentioned official

Records were not compiled in official custody. From an early date rolls, whether headed or consecutive, were protected by a thick vellum flap.

<sup>1</sup> The evidence of experts in handwriting can scarcely be regarded as convincing in really difficult cases.

<sup>2</sup> Peter le Neve, Norroy King of Arms (1704-29) in the case of the "Breviate" of Domesday referred to below. Possibly the cause of his error is to be found in the descriptions of the illuminations scribbled on the fly-leaves in a late Gothic hand.

<sup>3</sup> Scargill-Bird, *Guide*, p. 122. Cf. *Court Life under the Plantagenets*, p. 203.

<sup>4</sup> Exch. K. R. Miscellaneous Book, No. 1.

<sup>5</sup> MS. Arundel, 153.

volume, and on the strength of this resemblance and other indications it has been suggested that both these additional "Breviates" are MSS. of the late 12th century or early years of the 13th<sup>1</sup>.

This uncertainty and inconsistency in dating comparatively obscure records is perhaps excusable, but more than one historical text of the highest constitutional importance has been derived from a misdated MS. Thus the Feodary known as the Black Book of the Exchequer has been persistently ascribed to the reign of Henry II by mediaeval historians whilst by official experts it is connected with the reign of Henry III.

The actual date of its compilation must be placed towards the end of the reign of King John<sup>2</sup>. The imperfect description of the collection known as the *Testa de Nevill* is another instance in point<sup>3</sup>, and when we recall the early misconceptions which prevailed with regard to the famous Pipe Roll of 1130<sup>4</sup> we may even feel prepared for a disillusionment concerning the contemporary date of Domesday Book itself. For from a purely palaeographical point of view the gulf fixed between the existing volumes of the Great Survey, between the official transcript and the official "Breviate," appears indeed impassable within the span of six months or of six years.

If therefore we have to admit that the comparison of handwritings is unsatisfactory, it is clear that we must employ this palaeographical test as sparingly as possible. Other methods that are based on the observations of the materials employed possess the same defect of inconclusiveness. In theory the exceptions to a convenient generalization may prove the rule, but in practice, especially legal practice, they are clearly inconvenient. Such are the general indications afforded by the texture or tint of the parchment and the spacing, lineation, punctuation, rubrication, illumination, contraction marks and accents of MSS. Moreover the periods determined by these distinctive signs are usually too wide to be of much practical value.

The familiar rules of the "dry point," of the "tagged e," of the acute contraction mark, of green or blue initials may fix the date to a century or to half a century, but for official documents we require some narrower margin. This is frequently supplied by diplomatic evidence, such as the style or signatures, and therefore on the whole the above indications are of less service in the case of Records than

<sup>1</sup> *Athenaeum*, 15 Sep. 1900.

<sup>2</sup> *Red Book* (Rolls), p. lvi.

<sup>3</sup> *Ibid.* p. ccxxi sq. This was written before the publication of valuable essays by Dr J. H. Round and Mr O. J. Reichel.

<sup>4</sup> Madox, *History of Excheq.* (*Dissert. Epist.*).

of literary MSS. For indications of the nationality or even of the provincialism of the scribe, as well as to some extent of the antiquity of documents, philology may assist us to good purpose. There are, however, certain inferences to be drawn from obvious defects or blemishes in Records. Of these the most harmless are blanks which only the most daring forger would attempt to utilize; but lines left unfilled are often furnished with an important postscript in the case of official Registers for the purpose of bringing an entry up-to-date.

In diplomatic writings, however, such opportunities were more rarely furnished, new paragraphs being carefully avoided. Even when the insertions and "posteas" above referred to were duly authorized, their true character must be carefully distinguished, and much inconvenience may be caused by their adoption in a later transcript as part of the original text.

Naturally the most frequent interpolations in all MSS. are those effected by way of interlineation. Here the practice of inserting additional matter must be distinguished from that of supplying words omitted at the time, which are obviously required by the context. In some cases a supplementary entry may be regarded as a mere embellishment due to the taste of the corrector<sup>1</sup>. When this identification is not possible the acceptance of the addition must depend chiefly on the absence of any motive for forgery.

The same attitude has been usually preserved in respect of erasures. These were positively forbidden by the rules of the *Scriptorium*<sup>2</sup>, but their frequent occurrence in spite of this prohibition is not necessarily a suspicious circumstance. On the contrary a palpable and especially an extensive erasure may be regarded as a presumption of *bona fides* if we are convinced that it was made by the original scribe. In no age have official regulations been taken altogether seriously, at least by the officials themselves, and the public confession of a blunder by the process of subpunctuation must have been particularly distasteful to a mediaeval scribe. In fact we are assured that a scribe who valued a reputation for penmanship rather than for accuracy frequently ignored clerical errors, the correction of which would have spoilt the appearance of his MS. But whatever the nature of these clerical errors, it is at least clear that they were more easily tolerated in the official practice of this country than abroad. Thus we do not find in the earliest period covenants to guard against the use of palimpsests or the common formula which

<sup>1</sup> e.g. The glosses in Domesday Book.

<sup>2</sup> *Dialogus*, I. v.

certifies that an evidential document is free from every blemish. Neither is it usual to mention the damaged or imperfect condition of the original by way of caution or reservation. The difference between the practice of the insular and Continental *Scriptorium* in this respect is of course only the reflection of a different system of jurisprudence. When we find instances of such precautions in diplomata preserved amongst our national Archives we may be pretty sure that we have to do with the handiwork of an authorized notary, or with some case affecting the subjects of a king of France reigning at Westminster<sup>1</sup>.

On the whole, then, we shall perhaps be well advised to make a more liberal allowance for the frailty of clerical nature as evinced by error rather than by fraud. Ignorance and inattention will account for worse than clerical errors in the business of the State in every age. But besides these and other besetting sins, the path of the mediaeval scribe was strewn with many snares. Of these the most fatal to copyists is probably the well-known illusion caused by "dittography," which was intensified by the prevalence in official exemplars of recurring names and formulas.

Another danger which might affect original composition was due to the practice of the *dictamen*, resulting in phonetic misconceptions. Thus the words "*Carta Regis*," as dictated by a thick-lipped canon, might easily be understood and written as "*Carta ejus*" by the inattentive scribe.

When we have gauged the capacity of mediaeval clerks, we shall probably have learned to distrust the accomplished, resourceful and devoted chronicler of vested interests more than the official pedant or his drudge. It is certain that cases of the forgery of Records are very rare, and the offenders were universally denounced<sup>2</sup>. That official scribes made faithful transcripts of forged charters in the routine of business does not imply their complicity in a public fraud, even though credulity was to their interest. Possibly a considerable amount of local forgery in the shape of the production of "bogus" Writs and the falsification of Accounts was perpetrated by royal officers and accountants, but such abuses, if they escaped correction at the time, are usually revealed by their own imperfection.

<sup>1</sup> These notarial forms occur chiefly in connexion with ecclesiastical and commercial business. Instances in the case of French charters confirmed by the English crown will be found in the French and Norman Rolls of the 15th century.

<sup>2</sup> The corrupt judges of Edward I and the reactionary government of Richard II were charged with offences of this nature, for which an exemplary punishment was meted out.



In a much later period we encounter fresh difficulties in the identification of official writings, difficulties which are chiefly due to the want of facilities for the comparison of drafts or copies of ministerial despatches with established holographs. It is true that as a rule the personality of the actual writer counts for little in accepting these official despatches as historical texts. Even the existence of a widespread belief that in these documents we have the *ipsissima verba* of individual statesmen, together with their individual system of punctuation, capitalization and spelling, is of little moment. The official letter written to order, or to pattern, and usually corrected by a responsible hand, may be regarded as to all intents an authentic expression of the signatory's views. It is only when we desire to go behind the latter that a close examination of the MSS. is necessary. There are traditions of old times, just as there may be rumours of to-day, that in a certain minister's despatches we can recognize the handiwork of an imperious colleague or of a gifted subordinate. We should usually seek in vain to establish such a fact from the evidence of handwriting; but not infrequently the identification of the hands in the case of *marginalia*, postscripts or endorsements will have a sensational interest. For the most part, however, such personal traits are confined to "minutes" or observations written on the dorse or margins of despatches or other documents received by the government, and historical students are debarred from making any use of these indications by the standing rules of the government departments.

#### (h) *Contractions.*

The prevalence of contracted words in official documents is at least as noticeable as in the case of literary MSS. An attempt to establish the existence of certain distinctions between the method employed in both cases would scarcely be profitable, but at the same time it might not be altogether unpracticable. If it be true that the real object of this device was to economize materials and labour, it might be supposed that an official establishment could have afforded to dispense with such an expedient on either score. Against this view it might reasonably be argued that the official expert would be tempted, by the very facility of his art, to indulge in cryptic forms which would have few attractions for the lay mind.

As it is, we shall perhaps find that the extent to which use was made of the ordinary *compendia* by official scribes varies according to the period and style of the writing, equally with the practice observed

in the case of private compositions. Thus the writing of an original royal charter or private deed of the 11th or 12th centuries will as a rule be very slightly contracted, whilst an official register, like a monastic cartulary or history, may be intensely abbreviated.

Again, in the 13th and following centuries, original instruments of all kinds are usually written at greater length than the enrolments or entries of the same that are preserved for reference in the shape of legal Records and Books of Remembrance.

Now as the latter only have been consistently preserved in official custody, it follows that documents contained in archives will presumably show more signs of contraction than private muniments or literary MSS. This obvious deduction will certainly apply to the great classes of Chancery Enrolments and Judicial Pleadings which are also seen to be more systematically contracted than local returns or registers. In the case of Ministers' Accounts and Court Rolls preserved in official or private collections the writing was performed by the same agency. Here again, however, the advantage (or disadvantage) rests with the official collection which, by force of survivorship, has become possessed of the larger share of a class of documents that are specially subject to contraction from their very nature.

Whether any general distinction can be made between the two classes of writings in respect of the form of contraction respectively employed, is more than doubtful. Perhaps we should find a larger proportion of *compendia* in the shape of initial letters amongst official compilations such as Accounts and Pleadings. We may also notice a more systematic method of abbreviating familiar or recurring terms, titles and the names of persons or places, but this practice is perhaps chiefly noticeable on account of the frequent employment of such words in the composition of official documents. On the other hand special or abnormal forms of contraction are comparatively rare in legal Records, though some are found in connexion with fiscal or curial practice.

For all this it is certain that the purely conventional signs of contraction, whether by strokes or by letters above the line, are made on the same plan in both classes of MSS., except that official scribes from the 13th century onwards made their mark in the careless and irregular fashion that we should naturally associate with a more cursive writing. The distinction which may be observed between the *compendia* used in mediaeval Latin and French documents, respectively, has been referred to above. It is possible that the general uncertainty

which prevails with regard to the precise rendering of the Anglo-French *compendia* is partly due to the want of an adequate list of forms in facsimile. Such lists indeed are found in foreign manuals<sup>1</sup>, but these forms will be found to differ materially from those which commonly occur in Anglo-French MSS. On the other hand there are some points of agreement in the respective methods employed by Continental and insular scribes. Of these the most noticeable are perhaps the treatment of the initial letters q<sup>2</sup> and s<sup>3</sup> in minuscule script and of the final letters d<sup>4</sup> and z<sup>5</sup>, the last of these being a fertile source of difficulty. Again there is the philological difficulty, besides the necessity for at least an elementary knowledge of the Old French Accidence and Syntax. For example the English student will at once recognize such *compendia* as chter and nře, but he will often extend them as "chevalier" and "nôtre," whilst the forms of "Monseigneur," "Messire," "Seigneur" and "Sieur" will occasion him more than a momentary perplexity.

There is one distinction, indeed, between the official and private writings of a later period which is so well marked that it cannot fail to attract our notice. The persistent use of contractions in the Records and State Papers of the 16th and 17th centuries and even of later times may be regarded as the survival of a conventional device, as necessary to the minds of legal pedants as the use of Tallies or of Roman numerals<sup>6</sup>. In one aspect, this survival appears as a mere imitation of the mediaeval forms of contractions which may be found in purely legal Records as late as the reign of George II. Indeed such contractions are, if anything, more numerous in the later period than at any other time, and, owing to scribal flourishes and exaggerations, they are even more difficult to decipher. The same method was to some extent resorted to in abbreviating the vernacular script during the 16th century, and a somewhat grotesque effect is caused by its use in the rescripts of Henry VIII or the despatches of Lord Burghley.

But side by side with these traditional forms new *compendia* are found in English official documents of the Tudor and Stuart periods. Here the abbreviation of frequently recurring words is effected by the

<sup>1</sup> *e.g.* In the excellent manuals of Prou, Reusens and Capelli.

<sup>2</sup> *i.e.* The backward stroke of the tail of this letter to indicate the elision of the u.

<sup>3</sup> *i.e.* The long s with a curved line indicating the omission of er.

<sup>4</sup> *i.e.* For *dît* in such compounds as *du dît*, &c.

<sup>5</sup> This letter is not only used for ue and et as in Latin contractions, but also for s or even ts.

<sup>6</sup> Witness the well-known stories of the failure of indictments in which flaws were found in respect of unintelligent renderings of certain *compendia*.

simple device of omitting some syllables or letters, the contraction being indicated by a full stop or a letter above the line<sup>1</sup>. Initial letters are also frequently used for familiar titles or persons and may be doubled in the classical style to denote the plural number<sup>2</sup>. Again some saving of labour and space was presumably effected by the practice of running two words together, one or more letters being usually omitted in the process<sup>3</sup>.

The abolition of Latin as the official script of legal Records in the year 1731 was naturally followed by the complete disuse of the conventional mediaeval contractions. Their place was taken by a casual and arbitrary expedient which had been more or less in evidence since the Restoration.

This method of contraction was usually effected by retaining the first and last letters of a word and omitting one or more intermediate letters<sup>4</sup>. Sometimes the contraction was indicated by raising the last letter above the line. In other cases a contraction sign was employed which resembles that still used in so-called "Record type." It will be found that in the case of words derived from Latin, the method of contraction resembles that found in mediaeval MSS.<sup>5</sup> At the same time most of the recognized contractions of English script that occur in the State Papers of the 16th and 17th centuries were preserved in a somewhat debased form, and to these a number of special forms must be added from the Departmental Records of the 18th century. The best known of these forms are perhaps the mysterious initial letters which appear in the Records of the War Office and Admiralty, denoting the several ratings of ships and men<sup>6</sup> and their disposition in the service<sup>7</sup>. The same system, however, was applied to the administrative business of other departments, and is still employed to a very considerable extent in the official routine of the present day.

<sup>1</sup> *e.g.* Ho. Hon<sup>r</sup>. Lo. LP. yo<sup>r</sup>. for "Honour," "Lord," "Lordship," "your" respectively. M<sup>r</sup> and D<sup>r</sup> are survivals of this practice.

<sup>2</sup> *e.g.* L. and LL. for "Lord" and "Lords." K. for "King," &c. The habit of indicating individuals by initial letters was even more common in the 18th century and is not unknown in the present day.

<sup>3</sup> *e.g.* "Th'agreement" for "The agreement," "shalbe" for "shall be," &c.

<sup>4</sup> *e.g.* "Atty" (Attorney), "complt." (complainant), "deft" (defendant), "resply" (respectively), "afsd" (aforesaid), &c.

<sup>5</sup> "Exāied" (examined), "exōr" (executor).

<sup>6</sup> *e.g.* H. S. (Hospital Ship), F. S. (Fire-Ship), A. B. (Able-bodied), L. M. (Landsman), P. (Post Captain), &c.

<sup>7</sup> *e.g.* D. (Discharged), D. D. (Discharged dead), R. (Ran, *i.e.* deserted), D. S. Q. (Discharged to Sick Quarters), &c.



*(i) Extensions.*

If there is little to distinguish the official system of "brachyography" from that employed in the case of literary or liturgical MSS. it does not follow that the modern method of extending these contracted forms will be the same in both cases. In the first place it has been the custom to reproduce MSS. such as "Histories" or "Lives" in an extended form instead of attempting to imitate, or at least to indicate, the abbreviations of the scribe by means of typographical devices.

In the case of official documents, however, the opposite practice has been largely followed, and some explanation of this fact would seem to be required. Possibly the question of expediency has not been raised in connexion with literary MSS. for the mere reason that the *compendia* representing the vocabulary of such MSS. are comparatively simple or at least purely conventional. On the other hand, owing to the prevalence of technical terms, and the frequent references to persons and places, it must be evident that the extension of official documents is a matter of far greater difficulty. A frank hesitation to undertake this difficult task would, therefore, scarcely be surprising. Unfortunately the attitude adopted with regard to this question during the past century is not simply permissive. The contracted Record has been regarded as something sacro-sanct in virtue of the conventional and often arbitrary method of an unknown scribe. To tamper with it by way of extension is forbidden with passionate vehemence, and all kinds of austere devices have been resorted to in order to reproduce these primitive expedients of an age that was not blessed with cheap paper and cheaper ink.

To touch upon the subject of the extension of contracted words in official documents is therefore, of necessity, to be perilously didactic. And yet it might fairly be thought that the time has come, when some argument, however inconclusive, for the consistent use of extensions deserves a hearing.

Indeed it would seem useless to describe the several methods of contraction unless we may suppose that it is possible or desirable to understand their meaning. It is certainly possible, with a sufficient knowledge of the forms of the mediaeval alphabet and signs of contraction, to make a faithful copy of the original MS., and this without realizing the full meaning of the exemplar. The thing is done every day, and very worthy and industrious persons have for centuries past made a hard-earned living by the practice. We might even entertain

reasonable doubts as to whether the mediaeval scribe himself would have been able to realize the exact forms of many names or phrases which he systematically abbreviated, according to the manner of his kind. The question therefore naturally arises "Is it necessary or expedient to attempt more than a literal presentment of the original MS.?" To support these scruples, many would point out the obvious difficulties and dangers attending such a course. Instead of merely transferring a visual impression of the ancient script to modern foolscap, it would be needful to translate the *compendia* into a recognized vocabulary and appropriate parts of speech. Now this process would involve, in the case of mediaeval documents at least, in addition to proficiency in the Latin grammar and syntax, some knowledge of mediaeval history, geography, and biography, and perhaps also of philology, archæology, and "Diplomatic." Even when these accomplishments have been laboriously acquired, there is considerable risk, we might be told, of misinterpreting the *compendia* of the scribe—of confusing some place or person or thing with another.

It may be admitted that to mislead confiding readers is a grievous offence; but whether such stumbling blocks are greater than those caused by a contracted text is a question which, perhaps, is only one of degree. Moreover, the confidence of the reader is not to be assumed without some reserve. Experience would probably show that the intelligent and considerate reader is capable of adjusting such defects for himself from personal observation or local knowledge. Whether the critic has already proclaimed these errors from the house-top, matters very little after all. Let us admit then that labour must be incurred, and the supposed danger faced in such a task, for transcribers and editors are only human, and errors will creep into the most careful work. But with these admissions, let us also point to the net gains that will accrue. In the first place the distinction hitherto made between the treatment of literary and official MSS. will cease to exist. Secondly, "Record type" and other artificial devices for indicating abbreviations will become wholly obsolete. Thirdly, a new impulse will be given to the intelligent study of mediaeval antiquities by the requirements of modern scholarship which will probably deter future writers from citing documents the precise meaning of which they confessedly do not understand. Whether the mere copyist of MSS. should be under the same obligation is a somewhat difficult question which involves a consideration of the morality of editing MSS. without a personal examination of the script, and moreover the intervention of the mechanical copyist may be eventually dispensed with through the

progress of the photographic art. To prescribe a method of extension—even such as shall be applicable solely to official MSS.—does not come within the scope of a descriptive essay. Apart from this, the existing methods will be found to depend on individual tastes and requirements no less than on the apparatus available in every case. It can scarcely be said that any recognized system as yet prevails, though the precedents furnished by literary texts have naturally been followed as far as they apply to the present case. To a more limited extent use has been made of the correct and graceful models furnished by Continental editors<sup>1</sup>. These scholars at least are capable of extending English documents with as much ease and certainty as they display in respect of native documents, which, in the matter of extension, may be regarded as beyond the capacity of most English antiquaries. The accuracy of the above generalization is only too fully confirmed by an analysis of the process employed in the existing Record Publications. Here we find that prior to the year 1892 the official editions, represented chiefly by the texts of the Record Commission, are either printed in “Record type,” or are left unextended without any attempt to imitate the *compendia* of the original document<sup>2</sup>.

The publications of learned societies and individual editions produced during the same period, though occasionally revealing greater enterprise, are based upon similar methods<sup>3</sup>. It must be admitted that some progress has been made in this direction during the last few years, and perhaps only a little moral courage is required to complete the evolution of a consistent method of extension in the case of more

<sup>1</sup> Cf. *Rôles Gascons*, edited by C. Bémont.

<sup>2</sup> The exceptions to this practice are unimportant, but in 1893 a fully extended edition of *Placita Parliamentaria* (1305) was produced by Professor Maitland though this can scarcely be regarded as a typical Record. Complete extensions of excerpts from Records also occur in Mr L. O. Pike's edition of the *Year-Books*, and in the edition of the *Red Book of the Exchequer* in the same series (1891—1897) an attempt was made by the present writer, for the first time, to extend a Record on a large scale, following the Continental method referred to above. These attempts have at least lightened the labour of other workers in the same field.

<sup>3</sup> The texts published by municipal, legal and ecclesiastical corporations are not, with few exceptions, concerned with the present subject. A large number of those issued by local societies are in the form of Translations or Abstracts. Some of the Record texts, especially of the Surtees and Camden Societies, are ostensibly extended; but, as in the case of the official publications mentioned below, the extensions are not completely carried out. These omissions are frequently unimportant, but it is in respect of the trivial *compendia* that it is usually a matter of difficulty to ascertain the conventional extension. For instance, in such terminations as “vill,” “ton,” “ford,” it is an interesting speculation whether the style of the period or the idiosyncrasy of the scribe require the necessary extension to be made by a final “a,” “e” or “ia” respectively. These are points which can usually be ascertained with a little trouble, but the trouble must be taken if the extension is to be regarded as complete.

than one important series<sup>1</sup>. Happily too, the last influential support of "Record type" has been removed with the conversion of the Pipe Roll Society, and this device is only fitfully employed in the by-ways of antiquarian literature. The chief use of this debased and worthless method is reserved for "office-copies" of the Public Records exhibited in the Courts of Law where antiquarian knowledge is necessarily subservient to material interests.

Provided, therefore, that the student is furnished with an extended text, the literal form of the printed version of a mediaeval MS. is a matter of secondary importance. At the same time it may fairly be a subject of regret, to those who have the historical rather than the philological interests of students at heart, that the form in question should present further obstacles to the uninitiated. It is surely a needless waste of time to those who only regard Palaeography as the means of reaching a desired end that, in addition to the hindrance caused by "Record type" and other devices, mediaeval forms should also be imported into modern type, in perpetual memory, as it were, of the fact that certain letters of our modern alphabet are mere excrescences upon a classical model.

However, this fastidiousness has at least the merit of consistency, whilst it is undeniably correct. The student, therefore, must conform to its edict and must learn to extend MSS. both according to this new method and the older one authorized by the Rolls Series of Chronicles and Memorials. He must also learn to read an extended printed text in the modern style which eschews the diphthong and the letters j and v, imitates the initial vowel v, and employs modern capitalization sparingly or under protest. This rather severe discipline will be found essential in any system of practical instruction; for what is a pure joy to the scholar, is a bewildering innovation to the novice who, left to his own devices, would simply shirk the task and take refuge in an obsolete but readable edition<sup>2</sup>. Perhaps the questionable policy<sup>3</sup> above referred to is based upon a misapprehension of the requirements of the majority of readers of historical texts. That these

<sup>1</sup> In the Rolls Series (Calendars and Texts), since 1892, it has been the practice to extend in full with the exception of certain names of persons and places, which, though sufficiently obvious, might possibly form the subject of controversy.

In the case of the Selden Society's publications the use of "Record type," by which the earliest volumes were disfigured, has now been abandoned in favour of a method of extension which still more nearly approaches completeness.

<sup>2</sup> The above remarks do not necessarily apply to post-graduate students.

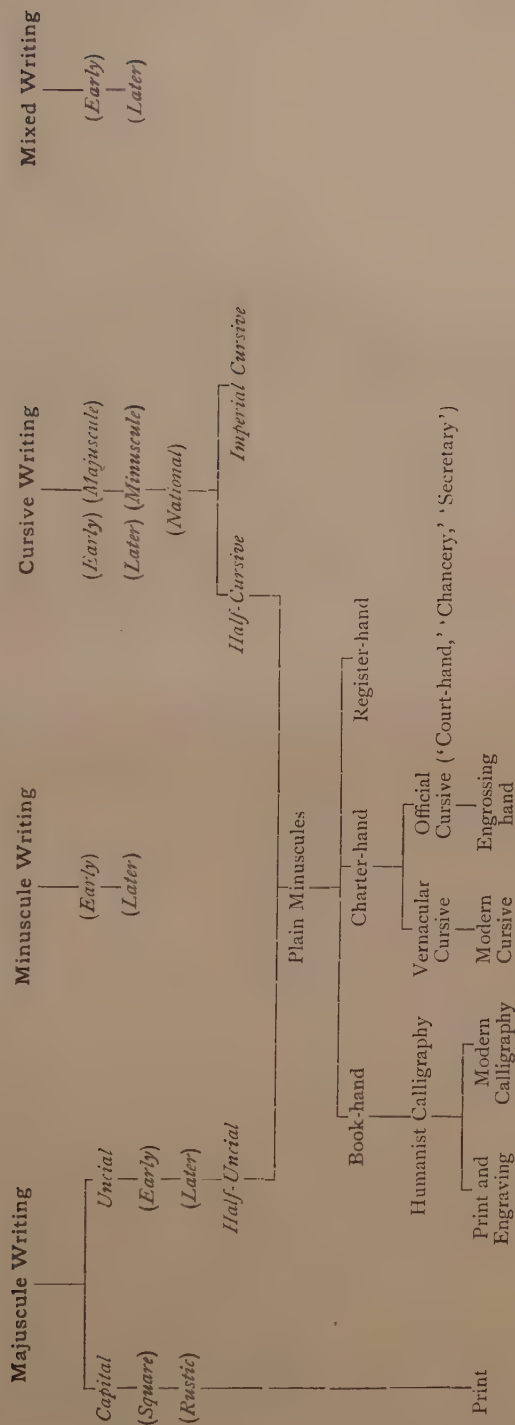
<sup>3</sup> This has at least been called in question, and some plain speaking on the subject may be found in the *Revue Historique* (XLVII. 114, LIII. 233, LXIV. 134); cf. also *Transactions* R. Hist. Soc. N. S. IX. 274, and the *Register of the Great Seal of Scotland*, Vol. I. Preface.



requirements are of the most elementary description is shown by the very fact that in more than one instance it is thought necessary to annex an English translation to this pure mediaeval print. But what is really required by most people is, not a hybrid facsimile in special type, but a version modernized to meet the exigences of the existing system of typography so far as concerns alphabet, capitalization and punctuation. In all other respects, and notably in the preservation of the original spelling, the version will reproduce the original MS. extended according to the indications afforded by the scribe. If more than this is desired, as may not seldom be the case, the additional information afforded by a few archaic letters and an unintelligent punctuation will be of little service compared with an actual facsimile which some people would still regard as the only satisfactory method of reproducing a mediaeval Record.

## APPENDIX I.

TABLE SHOWING THE EVOLUTION OF ENGLISH WRITING.



## APPENDIX II.

### CLASSIFICATION OF THE BIBLIOGRAPHY OF PALAEOGRAPHY.

The following classification is intended to assist the selection of published works which deal chiefly with official documents.

The classification adopted here is intended to emphasize a distinction in point of date of publication. Possibly most of the early authorities might be dispensed with by those students who have access to the more recent works which have not, unfortunately, as yet found their way into many public libraries of this country.

#### A. Bibliography of Bibliographies.

- (a) Early publications.
- (b) Modern publications.

#### B. General Authorities.

- (a) Early.
- (b) Modern.

#### C. Special Authorities.

##### I. National writings.

##### 1. England.

- (a) Early.
- (b) Modern.

##### 2. Scotland, Ireland and Wales.

- (a) Early.
- (b) Modern.

##### 3. Other national writings.

##### i. Italy. (Papacy and States.)

- (a) Early.
- (b) Modern.

- ii. Germany. (Empire.)
  - (a) Early.
  - (b) Modern.
- iii. France.
  - (a) Early.
  - (b) Modern.
- iv. Spain.
  - (a) Early.
  - (b) Modern.
- II. Miscellaneous.
  - (History of Archives, Materials of Writing, Ciphers and Shorthand, Watermarks, Illuminations and Marginal Drawings, Autographs, &c.)
- D. Dictionaries of Abbreviations.
  - (a) Early.
  - (b) Modern.
- E. Collections of Facsimiles.
  - i. General.
    - (a) Early reproductions.
    - (b) Modern „
  - ii. England.
    - (a) Early reproductions.
    - (b) Modern „
  - iii. Scotland, Ireland and Wales.
    - (a) Early reproductions.
    - (b) Modern „
  - iv. Other national writings.
    - (a) Early reproductions.
    - (b) Modern „





## TABLE OF MATTERS<sup>1</sup>.

- Accounts, Royal, 307-310, 337, 338;  
 "Foreign," 231, 309; Continental, system  
 of, 307; agrarian, 307; diplomatic of,  
 308-310; construction of, 308, 309; classi-  
 fication of, 55, 56, 59, 77, 78, 97, 98,  
 131, 308-310. *See* Surveys, *see* Inqui-  
 sitions, *see* Records, *see* Departmental  
 Records
- Acknowledgments, *see* Charters (Later)
- Addresses, *see* Petitions
- Admiralty Courts, *see* Writs (Great Seal)
- Admiralty Departments, *see* Departments,  
*see* Departmental Records
- Admiralty Records, *see* Departmental Re-  
 cords, *see* State Papers, *see* Warrants, *see*  
 Instruments (Departmental)
- Affidavits, *see* Records, *see* Charters (Later)
- Agriculture, Board of, *see* Departments
- Aliens, *see* Denization, *see* Departmental  
 Records
- America and West Indies, *see* State Papers
- "Ancient Correspondence," *see* Letters, *see*  
 Records
- "Ancient Deeds," *see* Charters (Anglo-  
 Norman and Later)
- Ancient Indictments, *see* Records, *see*  
 Inquisitions (Statutory), *see* Judicial  
 Proceedings
- Appointments, *see* Letters (Patent), *see*  
 Departmental Records
- Approbation, *see* Warrants
- Archæ Judæorum*, *see* Charters (Later)
- Archives (English), 1-153 *passim*; custody  
 of, 7, 87-89; neglect of, 7; the "Science"  
 of, 6, 101 sq.; study of, 6-12; publi-  
 cation of, 4-12, 23, 28, 29, 50, 75 sq.,  
 82 sq., 90, 99-110; definition of, 1;  
 history of, 13-52, 111-128; custody of,  
 13-52, 111-128; classification of, 53-  
 74, 129-143; analysis of, 75-100, 144-  
 149; bibliography of, 28, 101-110, 150-  
 153, 350, 351, 396, 397; diplomatic of,  
 157-351; palæography of, 355-397;  
 Continental, 6, 10, 101, 158, 355; local,  
 21, 22, 115-118; departmental, 7-10, 43-  
 52, 70 sq., 89 sq., 123-128, 141-143,  
 149. *See* Records, *see* State Papers, *see*  
 Departmental Records
- Assart, *see* Writs, *see* Forests, *see* Charters  
 (Anglo-Norman)
- Assignment, *see* Charters (Later), *see* Instru-  
 ments (Semi-official)
- Assistance, *see* Writs (Great Seal)
- Assizes, *see* Courts of Law, *see* Records, *see*  
 Inquisitions, *see* Chapters of the Eyre
- Attorney, Letters, &c., of, *see* Charters  
 (Later)
- Attornment, *see* Charters (Anglo-Norman)
- Baga de Secretis*, *see* Judicial Proceedings
- Bibliography, *see* Sources, *see* Diplomatic,  
*see* Palæography, *see* Archives, *see* State  
 Papers, *see* Departmental Records
- Bi-lingual Charters, *see* Charters (Anglo-  
 Norman)
- Bills, *see* Privy Seal Writs, *see* Signet Letters,  
*see* Warrants, *see* Pleadings
- Bonds, *see* Charters (Later)
- Borders, *see* State Papers
- Bretons' Lands, *see* Inquisitions (Statutory)
- Breviates, *see* Inquisitions (Fiscal)
- Butler, *see* Warrants, Departmental
- Calendars, *see* Records, *see* State Papers, *see*  
 Bibliography
- Camera Regis*, 15, 18, 19, 215, 229, 260
- Cartularies, *see* Charters, *see* Judicial Pro-  
 ceedings
- Carucage, *see* Inquisitions (Fiscal)
- Caveat*, *see* Instruments (Secretarial), *see*  
 Warrants (for Issues)
- Certificates, *see* Charters (Later), *see* Depart-  
 mental Records
- Chancellor, antiquity of the office of, 163-

<sup>1</sup> As an extensive Index seemed to be out of keeping with the character of a volume of Essays which has no pretensions to the position of a Manual, the names of Persons and Places, being, with a few exceptions, only mentioned incidentally in this work, have not been indexed. The frequently recurring titles of State offices, local repositories of Archives, classes of documents and technical terms connected with the subject-matter of the Essays have been briefly tabulated in the following pages. They have also been indicated in a Table of Contents and brought together in voluminous Appendices. Numerous cross-references are given in the footnotes.

- 168, 215, 227 sq.; duties of the, assumed by the Secretaries of State, 61, 229, 275
- Chancery, Enrolments, 218, 227 sq., 249 sq., 263 sq.; warrants, 230, 270 sq., 275 sq., 331 sq., *see* Warrants; Memoranda, 230, 231, 263; Fees, 349; Records of the, 18 sq., 30, 61, 81, 86, 129, 130, 162; establishments of the, 15, 18 sq., 30, 61, 161, 163-168, 175, 215, 227 sq.; Seals of the, *see* Seals; on the Continent, 163 sq., 173, 174, 177, 189 sq., 201, 204, 205, 208, 211, 241, 257, 281, 322; the pre-Conquest or Old English, 163 sq., 208-211; the Anglo-Norman, 164 sq., 215 sq.; the later mediaeval, 227 sq.; *see* Courts of Law, *see* Records
- "Chancery" hand, *see* Palaeography
- Channel Islands, *see* State Papers
- "Chapters" of the Eyre, *see* Inquisitions, *see* Judicial Proceedings, *see* Eyre
- Charters, Anglo-Norman, 201-226, 310, 326; bi-lingual forms of, 204, 207-210; special forms of, 222 sq., 327; evolution of, 205, 211-214; diplomatic of, 204, 208-227, 347; palaeography of, 356, 364 sq.; authenticity of, 181 sq., 205, 207-211; confused with Writs, 174, 204, 205, 208 sq., 210-212; formulas of, 204, 210, 219-226; private forms of, 225 sq., 327
- Charters, Anglo-Saxon, 163-207, 310, 322, 326; preservation of, 14, 175, 178-182, 186-189; preparation of, 166-168, 175-177, 186-189; authenticity of, 14, 180-189, 208-211, 339-341; diplomatic of, 183 sq., 189 sq., 208-211, 339-341, 347; special forms of, 327; palaeography of, 355-358, 360-365, 374, 395; formulas of, 167 sq., 183 sq., 189-211, 341-346; publications of, 163, 177 sq., 190
- Charters, Later or Conventional, 227-240, 327, 328; replaced by Letters Patent, 237 sq.; private forms of, 244 sq.; semi-official forms of, 244 sq., 335 sq.; special forms of, 233, 234, 237, 238, 327, 328
- Church Books, *see* State Papers
- Church, Instruments relating to the, 164 sq., 175 sq., 187 sq., 248, 257, 258
- Ciphers, *see* State Papers, *see* Departmental Records, *see* Palaeography (Contractions)
- Civil List, *see* Departmental Records
- Classification of Documents, *see* Archives, *see* Records, *see* State Papers, *see* Departmental Records
- Clerks, *see* Chancery, *see* Palaeography (*Scriptorium*)
- Close Rolls, *see* Chancery Enrolments
- Codex*, *see* Charters (Anglo-Saxon)
- "Cokets," *see* Charters (Later)
- Collations, *see* Letters (Patent)
- Collector and Transmitter, *see* State Papers
- Colonial Office, *see* Departments, *see* State Papers, *see* Departmental Records
- Colonies, *see* State Papers
- Commissariat Department, *see* Departments, *see* Departmental Records
- Commissions, *see* Writs (Great Seal and Smaller Seals), *see* State Papers, *see* Departmental Records, *see* Instruments
- Composite Charters, *see* Charters, *see* Confirmations, *see* Inquisitions (Fiscal), *see* Instruments
- Compute*, *see* Fiscal Writs
- Concords, *see* Charters, *see* Fines
- Confirmations (Charters, Letters Patent), 176, 213, 222, 225, 240-244, 328; new practice respecting, under Henry III, 241
- Confirmations (private), *see* Charters (Anglo-Norman)
- "Congé d'élire," *see* Writs (Great Seal), *see* Warrants for issue
- Constat*, *see* Letters (Patent)
- Continental Chanceries, *see* Chancery, *see* Writing
- Contrabreve*, *see* Fiscal Writs
- Contractions, used in official writings, 386-389
- Contracts, *see* Charters (Later)
- "Contrarians," *see* Inquisitions (Statutory)
- Controlment Rolls, *see* Records, *see* Judicial Proceedings
- Conventions, *see* Charters (Anglo-Saxon), *see* Charters (Anglo-Norman), *see* Treaties
- Conveyances, *see* Charters (Later), *see* Feoffments
- Cornwall, Duchy of, *see* Records (repositories of)
- Coroners' Rolls, *see* Inquisitions (Judicial)
- Corrodies, *see* Charters (Later), *see* Inquisitions (Judicial)
- Corrodies (Templars'), *see* Judicial Proceedings
- Council, Records of the, 36, 40, 229, *see* State Papers, *see* Departments
- "Court-hand," *see* Palaeography
- Court Rolls, *see* Records, *see* Documents deposited
- Courts of Law (Chancery, Exchequer, King's Bench, Common Pleas, local and abolished Courts), 16 sq., 54 sq., 81 sq., 111 sq., 163, 213, 214, 215, 223, 228, 229, 233, 245 sq., 257, 260, 284, 292, 298, 299-304, 312 sq., 317, 326, 370-373
- Credentials, *see* Writs (Great Seal), *see* Instruments
- Curia Regis*, *see* Courts of Law
- Cursitors, *see* Chancery, *see* Records
- Cursive writing, *see* Palaeography
- Customs, *see* Departments, *see* Departmental Records, *see* "Cokets"
- Debentures, *see* Charters (Later), *see* Departmental Records
- Decrees, *see* Chancery
- Deed Polls, *see* Charters (Later)
- Denization, *see* Letters (Patent)
- Departmental Records, definition of, 60, 61, 89, 99, 100; methods of study of, 90 sq.; custody of, 43-52, 123-128, 231; classification of, 70-74, 141-143; analysis of, 89-100, 149; bibliography of, 50, 89, 100, 101-110, 150-153; diplomatic of,

- 272 sq., 276 sq., 334 sq.; Lists of, 70, 90 sq., 101 sq.
- Departments, Public, history of the, 43 sq.; Records of the, *see* Departmental Records
- Depopulations, *see* Inquisitions (Statutory)
- Diplomatic, 186, 257, 258; progress of the study of, 157 sq.; methods of the study of, 160 sq.; bibliography of, 102, 158, 161, 350, 351; of Records, 161, 281-326, 312 sq., 337, 338; of Charters, writs and mediaeval instruments, 157-269, 327-332; of Letters, State Papers and later instruments, 270-280, 331-335; of private and semi-official instruments, 205, 206, 225, 226, 244-248, 335-337
- Disafforestation, *see* Forests
- Dispersations, *see* Writs (Great Seal), *see* Diplomatic
- Docquets (Chancery), 230, 269, 275, 348; (Secretarial), 275, 348; (Departmental), 279
- Documents, deposited, 47, 59, 73, 98, 123-143 *passim*, 336, 337
- Documents (historical), use of, 1, 2; preservation of, 4-6; publication of, 4, 5; discovery of, 1, 8; bibliography of, 101 sq., 150 sq.; palaeography of, 159, 355-397; diplomatic of, 157-351. *See* Archives, *see* Records, *see* Sources
- Domesday Survey, *see* Inquisitions (Fiscal), *see* Charters (Anglo-Saxon)
- Domus Conversorum*, *see* Records (Custody of)
- "Dormant" Warrants, *see* Writs
- Drafts, *see* Letters, *see* Departmental Records
- Durham, *see* Records (repositories of)
- Ecclesiastical Courts, *see* Writs (Great Seal)
- Ecclesiastical Records, *see* Church
- Elections, *see* Parliament, *see* Church
- Entry Books, *see* Letters, *see* Records, *see* State Papers, *see* Departmental Records
- Escheats, *see* Records, *see* Inquisitions (Feudal)
- Establishments, *see* Archives, *see* Chancery, *see* Departmental Records, *see* Warrants
- Estreats, *see* Accounts, *see* Docquets
- Exchange, *see* Writs (Great Seal)
- Exchequer and Audit Office, *see* Departments, *see* Departmental Records
- Excise, *see* Inland Revenue
- Exemplifications, *see* Confirmations
- Exemption, *see* Charters (Later), *see* Letters (Patent)
- Extensions, of mediaeval contractions, 390-394
- Extents, *see* Surveys (Agrarian)
- Eyre, "Chapters" of the, 300-304, 317 sq., *see* Inquisitions (Statutory)
- Fairs, *see* Markets
- Fee-farm, *see* Charters (Anglo-Norman)
- Feoffment, *see* Charters (Anglo-Norman)
- Feudal Incidents, *see* Inquisitions (Fiscal), *see* Inquisitions (Feudal)
- Feudal Service, *see* Inquisitions (Fiscal)
- Fiat*, *see* Warrants for Issue
- Fines, *see* Chancery, *see* Charters (Later), *see* Records, *see* Judicial Proceedings
- Fiscal Writs, *see* Writs (Great Seal)
- "Foreign" Accounts, *see* Accounts
- Foreign correspondence, *see* State Papers, *see* Departmental Records
- Foreign Office, *see* Departments, *see* State Papers, *see* Departmental Records
- Forests, *see* Charters (Anglo-Norman and Later), *see* Inquisitions (Statutory), *see* Warrants (Secretarial)
- Forfeited Estates, *see* Inquisitions (Statutory), *see* Departmental Records
- Forma Inquisitionis*, *see* Inquisitions
- Formulas, *see* Charters, *see* Writs, *see* Records, *see* Inquisitions, *see* Pleadings, *see* Diplomatic
- Foundation, Charters of, *see* Charters (Anglo-Saxon)
- Frank-almoigne, *see* Free Alms
- Free Alms, *see* Charters (Anglo-Norman)
- French, Records written in, *see* Palaeography (Old French)
- Full Powers, *see* Writs (Great Seal), *see* Treaties, *see* Instruments
- "Geld inquest," *see* Inquisitions (Fiscal)
- General Surveyors, *see* Courts of Law, *see* Records
- Grants, *see* Charters, *see* Writs, *see* Warrants
- Grants of arms, *see* Warrants (departmental), *see* Charters (Later)
- Great Seal, *see* Seals
- Half-Cursive, *see* Palaeography
- Half-Uncial, *see* Palaeography
- Hanaper, *see* Chancery, *see* Seal, *see* Records
- Hidage, *see* Inquisitions (Fiscal)
- History, Auxiliary studies of, 10, 75-77, 101 sq., 150 sq., 161, 350, 351; Divisions and subjects of, 77, 78, 90, 108-110, 150-153, 350, 351; Methods of Study of, 1 sq., 8 sq., 74 sq., 109, 110, 158, 356
- Homage, *see* Charters (Later)
- Home Office, *see* Departments, *see* State Papers, *see* Departmental Records
- Household, Royal, 163 sq., 215, 228 sq., 264, *see* Departments, *see* State Papers, *see* Departmental Records, *see* Writs (Smaller Seals), *see* Warrants
- "Hundred Rolls," *see* Inquisitions (Statutory)
- Immediate Warrant, *see* Warrants for Issue
- Inclosure awards, *see* Depopulations, *see* Close Rolls
- Incorporation, *see* Charters (Later)
- Indentures, *see* Charters, (Later)
- Indentures of War, *see* Charters (Later)
- Indexes, *see* Records, *see* State Papers, *see* Departmental Records, *see* Bibliography
- Indictments, *see* Records, *see* Inquisitions (judicial)
- Informations, *see* Judicial Proceedings



- Inland Revenue, *see* Departments, *see* Departmental Records
- In-Letter, *see* Letter
- Innotescimus*, *see* Confirmations
- Innovation, *see* Confirmation
- Inquisitio Cantabrigiensis*, *see* Inquisition (Fiscal)
- Inquisitio Eliensis*, *see* Inquisitions (Fiscal)
- Inquisitions, judicial, 300-306, 315-326; diplomatic of, 281-326
- Inquisitions, Royal, 281-326, 337 sq.; Continental, 280-284, 319, 322; Fiscal, 284-295; Feudal, 295-297; Statutory or Political, 297-306, 315 sq.; Administrative, 297-304, 315 sq.; Remedial, 301-303, 315 sq.; Punitive, 301-306, 315 sq.
- Inspecimus*, *see* Confirmations, *see* Letters (Patent)
- Instructions, *see* Departmental Records
- Instruments, *see* Charters, *see* Writs, *see* Warrants, *see* Church
- Instruments (Departmental), 276-280, 335
- Instruments (Official), 327-335
- Instruments (Secretarial), 275, 276, 332-334
- Instruments (Semi-official), 244-248, 335, 336
- Interpolations in Charters, 182 sq., 224
- Inventions, *see* Writs (Great Seal)
- Inventories, *see* Accounts, *see* Records
- Ireland, *see* Records, *see* State Papers
- Jews, *see* Charters (Later), *see* Inquisitions (Statutory)
- Journals, *see* Departmental Records
- "Judaism," *see* Jews
- Judgment Rolls, *see* Records
- Judicial Proceedings, Records relating to, *see* Records, *see* Pleadings; Diplomatic of, 311-326, 338
- Justices Itinerant, *see* Eyre, *see* Assizes, *see* Records
- King's Bill, *see* Warrants for Issue
- King's Letters, *see* Letters, *see* State Papers
- "Kirkby's Quest," *see* Inquisitions (Statutory), *see* Judicial Proceedings
- Knight's Service, *see* Inquisitions (Fiscal)
- Lancaster, Palatinate and Duchy of, *see* Records (repositories of)
- "Land-boos," *see* Charters (Anglo-Saxon)
- Legations, Records relating to, 85, 258, 274, 279; Archives of, 70, *see* State Papers, *see* Departmental Records
- Letters, mediaeval, 270, 271; connexion of, with Writs, 270 sq., 275 sq.; formulas of, 270 sq., 275 sq.; modern, evolution of, 272 sq.; formulas of, 272 sq.; "Royal," 274-276, 334, 335; departmental, 90-92, 276, 277, 335; missive, *see* Signet Letters; Patent, 229 sq., 249 sq., 263 sq., 329-330; Close, 229 sq., 253 sq.; under the Great Seal, *see* Writs, *see* Charters, *see* Letters Patent, *see* Seals; under the Smaller Seals, *see* Writs, *see* Warrants, *see* Privy Seals, *see* Signet Letters
- Liberate*, *see* Fiscal Writs
- Liberties, Charters of, *see* Charters (Anglo-Norman)
- Licences, *see* Writs (Great Seal), *see* Warrants
- Lists, *see* Records, *see* State Papers, *see* Departmental Records, *see* Bibliography
- Livery of Seisin, *see* Charters (Anglo-Saxon), *see* Writs (Great Seal)
- Loans, *see* Letters, *see* Writs (Smaller Seals)
- Logs, *see* Departmental Records
- Lunatics, *see* Inquisitions (Feudal)
- Mainprises, *see* Records, *see* Charters (Later)
- Majuscule Writing, *see* Palaeography
- Malefactoribus, de*, *see* Inquisitions (Statutory)
- Mandate, *see* Chancery, *see* Writs, *see* Letters
- Patent, *see* Letters Close
- Markets, *see* Charters (Anglo-Norman)
- Marque, Letters of, *see* Admiralty Court
- Marshalsea, *see* Writs (Great Seal)
- Memoranda Rolls, *see* Records
- Methodizers, *see* State Papers
- Ministerial Proceedings, *see* Records, *see* Inquisitions
- Ministers' Accounts, *see* Accounts, *see* Documents deposited
- Ministris, de*, *see* Inquisitions (Statutory)
- Mint, *see* Departments, *see* Departmental Records
- Minuscle Writing, *see* Palaeography
- Minutes, *see* Departmental Records
- Miscellaneous, *see* Records, *see* State Papers, *see* Departmental Records
- Missives, *see* Writs, *see* Warrants, *see* Letters
- Muster Rolls, *see* Departmental Records
- National Debt Office, *see* Departments, *see* Departmental Records
- Navy Board, *see* Departments, *see* Departmental Records
- Nolumus*, the clause, 252
- Nomina Villarum*, *see* Inquisitions (Statutory)
- Normans' Lands, *see* Inquisitions (Statutory)
- Notarial Instruments, *see* Instruments, *see* Documents, *see* Chancery, *see* Charters (Later), *see* Palaeography
- Notitia*, *see* Writs, *see* Instruments, *see* Documents
- Oaths, *see* Charters (Later), *see* Instruments (Semi-official), *see* Documents
- Obligations, *see* Bonds
- Office, Grants of, *see* Charters, *see* Writs, *see* Warrants
- Offices (Government), *see* Departments
- Out-Letters, *see* Letters
- Orders, *see* Departmental Records, *see* Instruments (Departmental)
- Ordnance Records, *see* Departmental Records
- Palaeography, of official documents, 159, 355-397; Bibliography of, 396, 397; of Continental archives, 355 sq., 395; of Old English charters and writs, 175-177,

- 360-365, 374; of Anglo-Norman charters and writs, 363 sq., 374 sq.; of mediaeval writing in Latin, 365-368; of mediaeval writing in French, 368, 369; of later official writing, 369-373; terminology of, 376-382; tests employed in, 383 sq.
- Pancarta*, *see* Confirmations
- Pardons, *see* Writs (Great Seal), *see* Warrants
- Parliament, Proceedings relating to, 231-233, 256, 257
- Passage, *see* Exchange
- Passes, *see* Instruments (secretarial), *see* State Papers
- Patent Rolls, *see* Chancery Enrolments
- Pay Books, *see* Departmental Records
- Paymaster General, *see* Departments, *see* Departmental Records
- Pensions, *see* Charters (Later)
- Perdonavimus*, *see* Fiscal Writs
- Petitions, *see* Chancery, *see* Records, *see* State Papers, *see* Departmental Records
- Petty Bag, *see* Chancery, *see* Records
- Pipe Rolls, *see* Records, *see* Accounts
- Placita Aulae*, *see* Judicial Proceedings
- Plantations, *see* State Papers
- Pleadings, Records of, *see* Records; in diplomatic form, 311, 312, 322; on Inquisitions, 322-326; construction of, 322 sq.; reconstruction of, 326
- Post Office, *see* State Papers, *see* Departmental Records
- Poundage, *see* Inquisitions (Fiscal)
- Precedent Books, *see* Records, *see* State Papers, *see* Departmental Records
- Precept, *see* Letters (Patent), *see* Chancery
- Presentations, *see* Writs (Great Seal)
- Privy Seal Writs and Letters, 61, 258 sq., 263 sq., 275 sq., 331, 332
- Proclamations, 62, 132 sq., 233, 262
- Prohibition, *see* Letters (Patent)
- Protections, *see* Charters (Later), *see* Writs (Great Seal)
- Prothonotary, *see* Chancery, *see* Judicial Proceedings
- Proxies, *see* Charters (Later), *see* Notarial Instruments, *see* Church, *see* Parliament
- Purprestures, *see* Inquisitions (Feudal)
- Quit-claims, *see* Releases
- Quo Warranto*, *see* Inquisitions (Statutory)
- Ragemannis, de*, *see* Inquisitions (Statutory), *see* Inquisitions (Judicial)
- Rebellibus, de*, *see* Inquisitions (Statutory)
- Recall (Revocation), *see* Instruments (Secretarial)
- Receipts, *see* Charters (Later)
- Recognizances, *see* Charters (Later)
- Record Office (Public), 6, 25, 27 sq., 49, 111, 114, 115 sq., *see* Records, *see* Archives
- Records, custody of, 13-29, 111-120; classification of, 60-70, 129-131; analysis of, 75-82, 144-146; bibliography of, 101-110, 150-153; repositories (or treasuries) of, 13-29, 75, 76, 111-120; Welsh, repositories of, 22, 115; Scottish, 22; Local, 4, 6, 7, 21, 29, 115; Collectors, Transmitters and Methodizers of, 40 sq.; methods of study of, 75 sq., 101 sq.; Diplomatic of, 56-60, 161, 281-326; definition of, 53 sq., 59 sq., 311; evolution of, 312-313; antiquity of, 312-314; Calendars and Lists of, 23, 27 sq., 53, 54, 58, 59, 79 sq., 101 sq.; departmental, *see* Departmental Records
- Re-disseisin Rolls, *see* Writs (Great Seal)
- References (Secretarial), 268; (Departmental), 280
- "Register-hand," *see* Palaeography (*Scriptorium*)
- Registers, *see* Letters, *see* Records, *see* Departmental Records, *see* Palaeography
- Registries, *see* Archives
- Releases, *see* Charters (Anglo-Norman), *see* Charters (Later)
- Remembrance, books of, *see* Precedents
- Reports (of Law Officers, &c.), 268, 280
- Reports of Judicial Proceedings, *see* Judicial Proceedings (Records)
- Repositories, *see* Archives
- Reprieve, *see* Warrants (Secretarial)
- Restitution, *see* Charters (Anglo-Norman), *see* Letters (Patent)
- Returns, *see* Writs, *see* Inquisitions, *see* Judicial Proceedings
- Rolls, *see* Chancery, *see* Records, *see* Charters (Later), *see* Palaeography
- Royal Assent, *see* Writs (Great Seal), *see* Warrants (Secretarial)
- Sacramental Certificates, *see* Charters (Later)
- Safe-Conducts, *see* Protections, *see* Passes
- Scotland, *see* Records, *see* State Papers
- Scriptorium* (of the Chancery and Exchequer), 163, 167, 176, 215, 229, 364-366, 374-379, 384, 385
- Scutage, *see* Inquisitions (Fiscal)
- Seals, use of, before the Conquest, 168 sq., 347; use of, after the Conquest, 211, 215 sq., 229, 347; of the Confessor, 168 sq.; Continental practice of affixing, 168, 173; Smaller, 229, 231, 258-269, 337; Fees of the, 212, 349; *see* Privy Seal, *see* Signet, *see* Charters, *see* Writs
- Secretary of State, *see* State Papers, *see* Instruments (Secretarial), *see* Departmental Records
- Serjeanties, *see* Inquisitions (Feudal)
- Sheriffs' Aid, *see* Inquisitions (Fiscal)
- Sign Manual, *see* Charters (Anglo-Saxon); warrants under the, 230, 258 sq., 263 sq., 275 sq., 331-334
- Signet Letters, 61, 259 sq., 263 sq., 275 sq., 331, 332
- Signet Office, *see* Departments, *see* State Papers, *see* State Paper Office, *see* Seals
- Significavit*, *see* Charters (Later)
- Sources (historical), definition of, 1-2
- Sources (official), Introduction to the study of, 1-12; use of, 75 sq.; bibliography of, 101-110, 150-153

- Special Commissions, *see* Inquisitions (Statutory)
- Specifications, *see* Charters (Later), *see* Writs (Great Seal)
- State Paper Office, history of the, 30-43, 50, 51, 65 sq.
- State Papers, custody of, 36-43, 121, 122; classification of, 60-70, 132-140; analysis of, 70-74, 147, 148; bibliography of, 101-110, 150-153; diplomatic of, 270-276, 348; methods of study of, 84 sq.; definition of, 83 sq., 270 sq., 275 sq.; Calendars of, 82, 85-88, 101 sq.; formulas of, 270 sq.
- State, Secretary of, *see* State Papers, *see* Departmental Records, *see* Chancery; official instruments connected with the office of, 275 sq.
- State Trials, *see* Records, *see* Inquisitions (Statutory), *see* Judicial Proceedings
- Stationery Office, *see* Departments
- Statutes, *see* Letters (Patent), *see* Parliament
- Statutes, Enrolments of, 231, 233, 256, 257
- Statutes Merchant, *see* Charters (Later)
- Statutes Staple, *see* Charters (Later)
- Summons to Parliament, *see* Writs (Great Seal)
- Surrenders, *see* Charters (Anglo-Norman), *see* Charters (Later)
- Surveys, Agrarian, 281-284, 307; Continental, 281, 282, 307, 355; Parliamentary, 306
- Tallies, Exchequer, 15, 304, 307, 325, 378
- Taxatio* (1254-91), *see* Inquisitions (Fiscal)
- Templars, *see* Inquisitions (Statutory), *see* Corrodies
- Terms, Palaeographical, 379-382
- Tests, Diplomatic, *see* Charters (Anglo-Saxon)
- Tests, Palaeographical, 382-386
- Texts, *see* Bibliography
- Thegns, Charters granted to, 176, 187 sq.
- Tithes, *see* Inquisitions (Fiscal)
- Trade, Board of, *see* State Papers, *see* State Paper Office, *see* Departmental Records, *see* Departments
- "Trailbaston," *see* Inquisitions (Judicial)
- Transcripts*, *see* Bibliography
- Transmitter, *see* Collector
- Treasurer (Household), *see* Warrants (departmental)
- Treasury, *see* Departments, *see* State Papers, *see* Departmental Records, *see* Instruments (departmental), *see* Warrants
- Treaties, *see* Chancery, *see* State Papers, *see* Departmental Records, *see* Writs (Great Seal)
- Tri-lingual Instruments, *see* Writs, *see* Warrants, *see* Letters, *see* Palaeography (Old French)
- Ulnager, *see* Warrants, departmental
- "Vagabond Monks," *see* Warrants, *see* Church
- Valor Ecclesiasticus*, *see* Inquisitions (Fiscal)
- Vidimus*, *see* Confirmations
- Volumus*, the clause, 252
- Wales, *see* Archives, *see* Records
- War Office, *see* Departments, *see* State Papers, *see* Departmental Records, *see* Instruments (departmental), *see* Warrants (departmental)
- Wardrobe, 15 sq., 61, 82, 212, 229, 250, 275, 349
- Warrants, *see* Seals, *see* Writs
- Warrants, Immediate, 267 sq., 348; Chancery, *see* Chancery (warrants); Secretarial, 275 sq., 331 sq.; Departmental, 277 sq., 331 sq.; for Issue, 263-269; formulas of, 266; later procedure for, 267-269, 348
- Warranty, *see* Charters (Later)
- Warren, *see* Charters (Anglo-Norman), *see* Charters (Later)
- Williamson, Sir J., *see* State Papers
- Wills, *see* Charters (Anglo-Saxon), *see* Documents deposited
- Wilson, Sir T., *see* State Papers
- Works, Office of, *see* Departments, *see* Departmental Records
- Writing, official, types of, 358, 360-373, 395
- Writs, original and judicial, 57, 213, 214, 250, 315-317, 322
- Writs, pre-Conquest or Old English, 169-174, 201-211, 347; formulas of, 201-207, 219-222; "versions" of, 205, 208-211; post-Conquest or Anglo-Norman, 205, 207, 208 sq., 211-214, 216-222, 347; Assart, 223; or Letters under the Great Seal, 213, 233, 234, 249-258, 270, 328 sq.; under the Smaller Seals, 258-269, 270, 271, 331 sq.; "Dormant," 262; of Summons (Exchequer), 308, 310; of Inquisition, 249 sq., 284 sq., 297 sq., 312 sq.









